

Social And Health Services, Dept. of

Title 388 WAC

DEPARTMENT OF SOCIAL AND HEALTH SERVICES (PUBLIC ASSISTANCE)

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Chapter 388-08 WAC

PRACTICE AND PROCEDURE--FAIR HEARING

WAC

- 388-08-002 Fair hearing--Statutory basis.
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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-08-007 Fair hearing--Access to records. [Order 768, § 388-08-007, filed 1/10/73; Order 524, § 388-08-007, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-007, filed 4/1/68; Regulation 23.33, filed 6/16/67; Regulation 23.33, filed 10/13/66, effective 11/13/66; Regulation 23.52, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.

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

An applicant for or recipient of public assistance who is aggrieved by a decision of the department has the right to a fair hearing except he or she has no right to a fair hearing to appeal a decision when either state or federal law requires automatic grant or assistance adjustments for classes of recipients unless the reason for an individual appeal is incorrect grant or assistance computation. This right is established in RCW 74.08.070.

(1) An applicant has the right to a fair hearing to appeal a department decision denying his/her application for assistance or to appeal the department's not acting on his/her application with reasonable promptness.

(2) A recipient has the right to a fair hearing to appeal a department decision to terminate, suspend, or reduce his/her assistance or a decision to pay a grant through a protective payee. [Statutory Authority: RCW 34.04.020 and 74.08.090. 81-17-069 (Order 1695), § 388-08-002, filed 8/19/81; Order 768, § 388-08-002, filed 1/10/73; Order 524, § 388-08-002, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-002, filed 4/1/68; Regulation 23.20, filed 10/13/66, effective 11/13/66; Regulation 23.20, filed 1/24/64.]

WAC 388-08-00401 Authority to adjudicate. In accordance with chapter 43.20A RCW, the following delegations of authority to adjudicate contested cases as defined in RCW 34.04.010(3) are hereby made to all duly appointed and qualified hearings examiners, which includes supervisors and review examiners, within the office of hearings.

(1) Unless otherwise provided by administrative regulation or statute, hearings examiners shall have the following powers and duties:

(a) To conduct all contested case hearings arising within the department of social and health services.

(b) In all cases in which the office of hearings has sixty days or less from the date of receipt of the request for hearing to issue a final administrative decision, hearings examiners are authorized to prepare a proposed administrative decision or order which shall be submitted to the hearings authority for review and issuance of a final administrative decision or order.

(c) In all cases in which the office of hearings has more than sixty days from the date of receipt of the request for hearing to issue a final administrative decision or order, hearings examiners are authorized to prepare and issue an initial administrative decision or order.

(d) In addition to the powers set forth in subdivisions (1) (a), (b), and (c) of this section, hearings examiners designated as review examiners are authorized to act as the hearing authority to review proposed and initial administrative decisions and orders as appropriate, and to issue final administrative decisions and orders on behalf of the secretary or department.

(2) The hearings examiner shall, in adjudicating contested cases, apply as first source of law governing the issues of the hearing rules of the department as adopted in the Washington Administrative Code and any precedential decision(s) applicable to said rules.

(3) If there is no department rule(s) or precedential decision(s) which fully governs the issue(s) raised, hearings examiners shall resolve the issue(s) raised on the basis of the best legal authority and reasoning available, including that found in the state and federal constitutions, Washington statutes and regulations, federal statutes and regulations, and state and federal appellate court decisions. The hearings examiner shall not have the power to declare invalid any section of the Washington Administrative Code. If the validity of any section of the Washington Administrative Code is raised as an issue at any hearing, the hearings examiner shall permit arguments to be made on the record concerning that issue for subsequent review purposes: *Provided*, That where the sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients the examiner shall deny or dismiss the request for a hearing without permitting argument to be made on the record regarding the validity of any section of the Washington Administrative Code.

(4) A list of all duly appointed and qualified hearings examiners shall be maintained in the Office of Hearings, Post Office Box 2465, Mail Stop OB-43, Olympia, Washington 98504, and be made available for public inspection and copying.

(5) The chief, office of hearings, and such subordinate personnel he/she may appoint shall adopt operational and procedural instructions as they feel necessary to ensure the most efficient and effective operation of the office consistent with the due process rights of parties in contested case hearings. [Statutory Authority: RCW

34.04.020, 81-12-015 (Order 1657), § 388-08-00401, filed 5/29/81, effective 7/1/81.]

WAC 388-08-007 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-405 Withdrawal--Dismissal--Settlement. (1) The hearings examiner may deny or dismiss a request for a fair hearing:

(a) Where it has been withdrawn by the appellant in writing, or

(b) Where the sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients, or

(c) Where the appellant has abandoned the request for a hearing. If the appellant fails to appear at a hearing in person or by representative without good cause the hearings examiner shall deem the appellant to have abandoned the appeal. Where the request has been dismissed as abandoned and the appellant wants the request to be reinstated, the appellant must petition to have the request reinstated within fifteen days of the date the order of dismissal was mailed by the hearings examiner. The petition must state good cause for the failure to appear at the hearing.

(2) An appeal may be concluded by a written stipulated settlement signed by the appellant (or his/her representative) and signed by the department and approved by the examiner. [Statutory Authority: RCW 34.04.020 and 74.08.090, 81-17-069 (Order 1695), § 388-08-405, filed 8/19/81; Order 768, § 388-08-405, filed 1/10/73; Order 524, § 388-08-405, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-405, filed 4/1/68; Regulation 23.38, filed 10/13/66, effective 11/13/66.]

WAC 388-08-416 Selected final decisions as precedent. (1) In order to promote consistency of final decisions on like issues of fact and law, the office of hearings shall identify certain final decisions or portions thereof which may be relied upon, used, or cited as precedents during the hearing and review processes. In determining which decisions will be so identified, the office of hearings shall give preference to:

(a) Decisions which usefully illustrate proper application of general legal principles or procedures that have been adequately developed through administrative and/or judicial review;

(b) Decisions which clarify the meaning of undefined or inadequately defined regulatory terms or phrases;

(c) Decisions which provide particularly well-supported conclusions on legal issues which have been raised in many cases with conflicting results;

(d) Decisions which reflect significant departure from prior hearings practice;

(e) Decisions in which an existing precedential decision or any portion thereof is distinguished, modified, or overruled;

(f) Decisions resulting from hearings in which both parties were adequately represented and the issues were fully briefed.

(2) Final decisions, or portions thereof which meet one or more of the criteria in WAC 388-08-416(1)(a), (b), (c), (d), (e), or (f) shall be selected by majority vote of the chief review examiner and at least two other review examiners as may from time to time be selected for such purpose by the chief, office of hearings. The chief review examiner shall make available said decisions so selected to interested or affected parties for the purpose of soliciting comment on the appropriateness of assigning said decisions with precedential value.

(3) Interested or affected parties shall have thirty days from the date of mailing to provide the chief review examiner with comments on the appropriateness of assigning said decisions with precedential value.

(4) The chief review examiner and the selected review examiners shall fully consider all such comments prior to final designation of said decisions as precedential.

(5) Precedential decisions shall be indexed. Said decisions and index thereof shall be available to the public in the Office of Hearings, Post Office Box 2465, Olympia, Washington 98504, and distributed to interested parties, including, but not limited to, individuals and groups frequently representing appellants and the department in hearings.

(6) Nothing in this section limits the secretary's authority to adopt rules pursuant to the administrative procedure act, specifically including rules which modify or overrule a holding in a precedential decision.

(7) Precedential decisions as described in this section may be used by the staff of the office of hearings and department representatives in connection with the hearings process. Precedential decisions are binding on hearings examiners in rendering the initial decision. Precedential decisions are binding on review examiners when rendering a decision after a party has filed a petition for review unless clear and substantial argument is presented which, in the reasoned opinion of the review examiner, demonstrates that a precedential decision should be modified or reversed. Precedential decisions shall not be used by employees of the department as a substitute for manual provisions or numbered policy memoranda. [Statutory Authority: RCW 34.04.020. 81-12-015 (Order 1657), § 388-08-416, filed 5/29/81, effective 7/1/81.]

Chapter 388-10 WAC

PROTECTION OF HUMAN RESEARCH SUBJECTS

WAC

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WAC 388-10-010 Purpose. The purpose of this chapter shall be to establish rules implementing the department's policy for the protection of departmental

wards, clients, and employees who serve as human subjects in research and related activities. These rules do not supersede or limit the applicability of other state and federal laws and regulations. For example, see Title 45, Part 46 of the Code of Federal Regulations. [Statutory Authority: RCW 43.20A.550. 81-17-022 (Order 1687), § 388-10-010, filed 8/12/81.]

WAC 388-10-020 Definitions. (1) "Research" means a systematic investigation designed to develop or contribute to generalizable knowledge. Activities which meet this definition constitute "research" for purposes of these rules, whether or not they are supported or conducted under this label.

(2) "Related activities" means demonstration, service, development, and other projects that contain a research component.

(3) "Human subject" means a person about whom an investigator (whether professional or student) conducting research obtains data (a) through intervention or interaction with the person, (b) through observation of the person's behavior, or (c) from personal records and other private information sources. [Statutory Authority: RCW 43.20A.550. 81-17-022 (Order 1687), § 388-10-020, filed 8/12/81.]

WAC 388-10-030 Statement of policy. (1) No service unit or administrative unit within the department's jurisdiction shall allow, or shall participate in, the conduct of research and related activities unless the plans or protocols for such activities have been reviewed and approved by the department of social and health services human research review board or have been specifically exempted from this review requirement by published departmental guidelines.

(2) It is the intent of the department's human subjects protection policy that review of research and related activities by the review board determine that the rights and welfare of clients, wards, and employees are adequately protected; that risks to individuals are minimized, are not unreasonable and are outweighed by the potential benefits to them or by the knowledge to be gained; and that the proposed project design and methods are adequate and appropriate in the light of stated project purposes. [Statutory Authority: RCW 43.20A.550. 81-17-022 (Order 1687), § 388-10-030, filed 8/12/81.]

WAC 388-10-040 Implementation. (1) The department shall maintain a human research review board which shall have primary responsibility for the ethical and technical review of the use of human subjects in research and related projects conducted within the department's jurisdiction. Unfavorable review dispositions by this review board, including disapproval of proposed research, research restrictions, or special approval conditions, cannot, by federal regulation (45 CFR 46.112) be removed except by the review board. Favorable review decisions by the board shall be subject to review and concurrence by appropriate departmental officials.

(2) To assure continued protection of human subjects in on-going research at the activity site, departmental

service units involved in a significant number of research and related activities shall establish their own research oversight committees. These local committees shall function as extensions of the human research review board. They shall be responsible for providing ethical and procedural oversight in accordance with the review board's directions.

(3) Review of proposals requiring professional competencies beyond those represented on the human research review board shall require prior and written review consultation with at least four research experts who are competent to judge the scientific merit, benefits, and risks of the proposed research. [Statutory Authority: RCW 43.20A.550. 81-17-022 (Order 1687), § 388-10-040, filed 8/12/81.]

WAC 388-10-050 General applicability. The department's human research review rules shall apply to all organizational units of the department. They shall apply to all research and related activities that involve departmental clients, wards, or employees as human subjects or that require disclosure of their personal records, regardless of funding source, and regardless of whether the research is conducted by a departmental employee or by a nondepartmental investigator. The rules shall apply to all research and related activities subcontracted by the department under state and federal grants and contracts to nondepartmental organizations and individuals, regardless of whether the research or related activity involves departmental clients or a nondepartmental subject population. [Statutory Authority: RCW 43.20A.550. 81-17-022 (Order 1687), § 388-10-050, filed 8/12/81.]

WAC 388-10-060 Documentation of research proposals and review dispositions. (1) All research and related activity proposals subject to review under WAC 388-10-050 shall be submitted in writing and such proposals shall conform to the format and content guidelines published by the department.

(2) The director of the departmental unit responsible for human research review policy administration shall document in writing all review dispositions affecting research and related activity proposals submitted to the department. In the case of unfavorable dispositions, such documentation shall contain a statement of the reasons for the negative disposition. [Statutory Authority: RCW 43.20A.550. 81-17-022 (Order 1687), § 388-10-060, filed 8/12/81.]

WAC 388-10-070 Human research review guidelines. (1) The department shall develop and publish a comprehensive set of procedural guidelines for the protection of human research subjects within its jurisdiction. These guidelines shall be at least as restrictive as the minimum requirements set forth in Title 45, Part 46 of the Code of Federal Regulations, but may be more restrictive if necessary to satisfy the protective purposes of the department's human subjects protection policy.

(2) The published guidelines shall speak at least to the following topics:

- (a) Applicability;
- (b) Responsibility for policy and rule implementation;
- (c) Basic definitions;
- (d) Proposal format and content;
- (e) Review and certification requirements;
- (f) Activities exempt from review requirements;
- (g) Approval and disapproval authority; appeals;
- (h) Qualification requirements for investigators;
- (i) Review board composition and functions;
- (j) Review of ongoing research projects;
- (k) Informed consent requirements;
- (l) Disclosure of personal records for research purposes;
- (m) Publication conditions;
- (n) Provisions for adapting guidelines to the changing requirements of state and federal laws and regulations. [Statutory Authority: RCW 43.20A.550. 81-17-022 (Order 1687); § 388-10-070, filed 8/12/81.]

Chapter 388-11 WAC CHILD SUPPORT--OBLIGATIONS

WAC

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| 388-11-115 | Fraud—Vacation of decision. |
| 388-11-135 | Service. |
| 388-11-140 | Modification. |
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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; 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;

(c) 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 or September 1, 1979, whichever is later.

(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. 81-05-021 (Order 1605), § 388-11-011, filed 2/11/81; 80-01-026 (Order 1465), § 388-11-011, filed 12/14/79.]

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, argument, and/or for entry of findings of fact, conclusions of law and an initial decision in conformance with the order of remand. 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. 81-05-021 (Order 1605), § 388-11-105, filed 2/11/81; 80-01-026 (Order 1465), § 388-11-105, filed 12/14/79.]

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. 81-05-021 (Order 1605), § 388-11-115, filed 2/11/81; 80-01-026 (Order 1465), § 388-11-115, filed 12/14/79.]

WAC 388-11-135 Service. Service of the decision and order or notice of hearing pursuant to WAC 388-11-120 or 388-11-130 shall be by mailing a copy of the decision and order or notice of hearing to the last known address of the appellant by certified mail, and by mailing a copy of said decision and order or notice of hearing to the last known address of appellant's attorney or other representative at the hearing, if any. [Statutory Authority: RCW 74.08.090. 81-05-021 (Order 1605), § 388-11-135, filed 2/11/81; 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, consent order 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, determination pursuant to WAC 388-11-150 or consent order 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, 81-05-021 (Order 1605), § 388-11-140, filed 2/11/81; 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 388-11-150 Consent order and agreed settlement. 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 RCW 74.20.320, 74.20.330, 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 consent order or agreed settlement, "agreed settlement" being defined as a written agreement signed by each party, which is effective without approval of any hearings examiner. If a consent order is involved, the hearings examiner shall approve that 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 hearings examiner to approve said consent order without the necessity of testimony or hearing, upon presentation by the office of support enforcement. If negotiations as to a consent order or agreed settlement are commenced within twenty days of service on the responsible parent of the notice and finding of financial responsibility, and such negotiations fail and the responsible parent serves an objection on OSE within twenty days of the negotiations failing, the objection shall be considered timely served. The obligation to pay support or repay the debt, unpaid when due, stated in the consent order or agreed settlement is subject to collection action. Consent orders or agreed settlements are not subject to review pursuant to WAC 388-11-105 but are subject to modification pursuant to WAC 388-11-140 and may be vacated for fraud pursuant to WAC 388-11-115. [Statutory Authority: RCW 74.08.090, 82-17-068 (Order 1864), § 388-11-150, filed 8/18/82; 81-05-021 (Order 1605), § 388-11-150, filed 2/11/81; 80-01-026 (Order 1465), § 388-11-150, filed 12/14/79; Order 875, § 388-11-150, filed 11/16/73.]

Chapter 388-14 WAC SUPPORT ENFORCEMENT

WAC

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| 388-14-220 | Subpoena power. |
| 388-14-302 | Nonassistance support enforcement—Persons eligible. |
| 388-14-315 | Nonassistance support enforcement—Fees— Limitations. |
| 388-14-385 | Conference board. |

WAC 388-14-220 Subpoena power. The chief, of the office of support enforcement or his designee is a duly appointed officer 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 he deems relevant to the performance of his duties. [Statutory Authority: RCW 74.08.090, 81-05-021 (Order 1605), § 388-14-220, filed 2/11/81; 78-07-015 (Order 1305), § 388-14-220, filed 6/15/78; Order 1054, § 388-14-220, 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 social security 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 sections 17 and 22, chapter 171, 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, 81-05-021 (Order 1605), § 388-14-302, filed 2/11/81; 80-01-026 (Order 1465), § 388-14-302, filed 12/14/79; Order 1054, § 388-14-302, 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 services. The fee

shall be equal to ten percent of the support moneys collected and shall be deducted from each payment made by the person owing the duty to pay support.

(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). [Statutory Authority: RCW 74.20.040, 83-02-029 (Order 1932), § 388-14-315, filed 12/29/82, effective 3/1/83. 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 388-14-385 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 chief, office of support enforcement, or his designee 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 chief 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 chief or his designee, who shall serve as chairman, and two staff members, if deemed necessary, appointed by the chief or his designee. The conference board shall dissolve upon issuance of decisions on matters for which it was appointed.

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) Requests to waive interest pursuant to RCW 74.20A.190;

(9) Requests to waive or defer the nonassistance support enforcement fee pursuant to RCW 74.20.040;

(10) 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 remanded 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, sections 17 and 22, chapter 171, 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 of the conference board shall not be a contested case subject to review by the superior court 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. 81-05-021 (Order 1605), § 388-14-385, filed 2/11/81; 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

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| WAC | |
| 388-15-010 | Definition of service goals. |
| 388-15-020 | Eligible persons. |
| 388-15-030 | Rights of applicant for services. |
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| 388-15-217 | Chore or attendant care services for employed disabled adults. |
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| 388-15-562 | Congregate care—Eligible persons. |
| 388-15-568 | Congregate care—Payment—Standards—Procedures. |
| 388-15-570 | Family reconciliation services. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-15-172 | Day care participation. [Statutory Authority: RCW 74.08.090. 80-15-010 (Order 1552, § 388-15-172, filed 10/6/80. Statutory Authority: RCW 43.20A-.550. 78-07-021 (Order 1306), § 388-15-172, filed 6/15/78.] Repealed by 82-04-074 (Order 1757), filed 2/3/82. Statutory Authority: RCW 74.08.090. |
| 388-15-210 | Chore services for adults and families. [Order 1238, § 388-15-210, filed 8/31/77; Order 1147, § 388-15-210, filed 8/26/76; Order 1124, § 388-15-210, filed 6/9/76; Order 1088, § 388-15-210, filed 1/19/76.] Repealed by 81-06-063 (Order 1618), filed 3/4/81. Statutory Authority: RCW 74.08.090. |
| 388-15-211 | Chore services for families. [Order 1238, § 388-15-211, filed 8/31/77.] Repealed by 81-06-063 (Order 1618), filed 3/4/81. Statutory Authority: RCW 74.08.090. |
| 388-15-290 | Juvenile delinquency prevention services. [Order 1238, § 388-15-290, filed 8/31/77; Order 1088, § 388-15-290, filed 1/19/76.] Repealed by 81-20-063 (Order 1708), filed 10/5/81. Statutory Authority: RCW 74.08.090. |

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 family reconciliation services 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. 81-20-063 (Order 1708), § 388-15-010, filed 10/5/81; 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 eighty percent 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 eighty percent of the state median income for a family of four, adjusted for family size, except that:

(i) No individual or family is eligible for family planning or alcoholism services whose gross family income is in excess of fifty percent of the state median 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 seventy-five percent of persons given these services are members of families whose gross monthly income do not exceed ninety percent of the state median income, adjusted for family size.

(iii) Information and referral services, services to children in the children's 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 homemaker services are an integral but subordinate part of a protective service plan for children or adults, the services may be provided without regard to the level of gross family income. Chore services can be provided for a maximum of ninety days during any twelve-month period as an integral but subordinate part of an adult protective services plan.

(2) Gross median income for a family of four in the state of Washington effective October 1, 1980, is twenty-one thousand four hundred ninety-four dollars. Eighty percent = seventeen thousand one hundred ninety-five dollars.

(a) Income tables for eighty percent gross median income:

| Number in Family | Monthly Income | Annual Income |
|------------------|----------------|---------------|
| 1 | \$ 745 | \$ 8,942 |
| 2 | 974 | 11,693 |
| 3 | 1,204 | 14,444 |
| 4 | 1,433 | 17,195 |
| 5 | 1,662 | 19,946 |
| 6 | 1,892 | 22,698 |

(b) Income table for fifty-two percent gross median income:

| Family Size | Monthly Income | Annual Income |
|-------------|----------------|---------------|
| 1 | \$ 484 | \$ 5,812 |
| 2 | 633 | 7,600 |
| 3 | 782 | 9,389 |
| 4 | 931 | 11,177 |
| 5 | 1,080 | 12,965 |
| 6 | 1,229 | 14,753 |

(c) Income tables for fifty percent gross median income:

| Family Size | Monthly Income | Annual Income |
|-------------|----------------|---------------|
| 1 | \$ 466 | \$ 5,588 |
| 2 | 609 | 7,308 |
| 3 | 752 | 9,027 |
| 4 | 896 | 10,747 |
| 5 | 1,039 | 12,467 |
| 6 | 1,182 | 14,186 |

(d) Income tables for thirty-eight percent gross median income:

| Family Size | Monthly Income | Annual Income |
|-------------|----------------|---------------|
| 1 | \$ 354 | \$ 4,247 |
| 2 | 463 | 5,554 |
| 3 | 572 | 6,861 |
| 4 | 681 | 8,168 |
| 5 | 790 | 9,475 |
| 6 | 898 | 10,781 |

(e) 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 only with unrelated persons is considered a one-person family. An individual living alone or with unrelated persons may include in his or her application a dependent living in a separate household for whom support is paid.

(d) A child living with legally nonresponsible relatives, a minor living independently, and a child living under the care of unrelated persons are also considered one-person families.

(e) A school-age parent residing in parent's home with child is considered a separate family unit for purpose of determining family income.

(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, 81-18-045 (Order 1697), § 388-15-020, filed 8/28/81; 81-10-013 (Order 1645), § 388-15-020, filed 4/27/81; 81-01-087 (Order 1581), § 388-15-020, filed 12/19/80; 80-02-049 (Order 1477), § 388-15-020, filed 1/16/80; 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.]

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. Notice shall be given to a recipient of the department's planned action to reduce, suspend, or terminate; such notices shall follow and be in accord with WAC 388-33-376, 388-33-382, and 388-33-385.

(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) WAC 388-33-377 is incorporated by reference to determine the circumstances under which services will be continued pending a hearing when a recipient of services requests a fair hearing to appeal the department's planned action to reduce, suspend, or terminate services. [Statutory Authority: RCW 74.08.090. 81-09-058 (Order 1640), § 388-15-030, filed 4/20/81. 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 388-15-110 Resource access services. (1) Resource access services are available to all persons requesting services from community services offices by phone, correspondence or in person. These individuals are provided with information and referral, as needed, to

available services within the department or the community.

(2) The service responds to service requests by determining the type of service needed (desired) and linking the individual to the appropriate service.

(3) Provision of minimal health support and family planning information is the responsibility of all social service staff. Minimal service means providing names and locations of providers and general program description and other additional information as required.

(4) Resource access services may be offered to accomplish any of the five goals described in WAC 388-15-010. [Statutory Authority: RCW 74.08.090. 82-11-095 (Order 1811), § 388-15-110, filed 5/19/82; Order 1238, § 388-15-110, filed 8/31/77; Order 1088, § 388-15-110, filed 1/19/76.]

WAC 388-15-170 General and seasonal day care services.

(1) Day care services include providing care, protection, and related services for a child under fifteen years of age during the portion of the twenty-four hour day neither of the child's parents are able to provide necessary care and supervision for the following reasons:

(a) Parent is employed in accord with an approved case plan, and is not an AFDC recipient,

(b) Parent is enrolled in an approved work incentive program (WIN) (not to exceed one year) leading toward employment,

(c) For school-age parent to complete secondary education or attainment of GED (not to exceed two years), subject to approval by the department,

(d) Parent to keep physical or mental health appointment,

(e) Child in need of day care as part of children's protective service case plan,

(f) Provided as child welfare services by a professional or other mental health social service agency referral for the child's or parent's physical or emotional health or support to the family structure.

(2) Goals for general day care services shall be limited as specified in WAC 388-15-010(1)(a), (b), (c). Also see WAC 388-15-010(2).

(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 thirty-eight percent of the state median gross income for a family of four adjusted for family size. (See WAC 388-15-020(2)(d)).

(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 serving migrant families; and

(b) Must derive at least fifty percent of the family's 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 twelve months not to exceed thirty-eight percent 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 his or her own home by a relative or by an unrelated person during part of the twenty-four 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 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 he or she remain in his or her 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 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 he or she is in sufficient physical, emotional, and mental health to be a safe caretaker,

(v) Produce written references indicating he or she is capable of handling children of the ages for whom he or she will be caring and has the ability to provide activities suitable to the children's 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 as specified in subsection (5)(d)(i) through (ix) of this section.

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

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

(ii) Provide constant care and supervision of the children for whom he or she is responsible throughout the time he or she is on duty in accordance with the children's 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, the 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 payment is received. The parent or surrogate must send the payment receipt with his or her statement of child care provided during the previous month to the CSO before the next child care payment shall be authorized.

(c) If total payments to an individual providing in-home care are expected to be fifty dollars 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 74.08.090. 83-02-028 (Order 1931), § 388-15-170, filed 12/29/82. Statutory Authority: RCW 43.20A.550. 82-14-048 (Order 1839), § 388-15-170, filed 6/30/82. Statutory Authority: RCW 74.08.090. 82-01-051 (Order 1735), § 388-15-170, filed 12/16/81; 81-10-034 (Order 1650), § 388-15-170, filed 4/29/81; 80-15-010 (Order 1552), § 388-15-170, filed 10/6/80. 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-173 Parent participation day care.

(1) The department will provide assistance for day care expenses of employed one- and two-parent families with income exceeding thirty-eight percent of the state median income adjusted for family size (SMIAFS), but does not exceed fifty-two percent of SMIAFS. The parent(s) shall pay fifty percent of available income (income above thirty-eight percent of SMIAFS) toward the cost of day care. The department shall pay the remainder not to exceed the department's established rate.

(2) Parent participation day care will be authorized for the hours of the work day and transit from the provider's facility to work and back. When one parent is

employed and the other is in training, parent participation day care will only be authorized for the hours the working parent is employed and the other parent is in training. [Statutory Authority: RCW 74.08.090. 82-14-046 (Order 1837), § 388-15-173, filed 6/30/82.]

WAC 388-15-207 Chore services for adults--Legal basis--Purpose--Goals. (1) The legal basis for the chore services program is RCW 74.08.530 through 74.08.570.

(2) The purpose of the program is to assist eligible persons at risk of being placed in a residential care facility by providing allowable chore services tasks that will allow the eligible persons to remain in or return home whenever possible.

(3) Goals for chore services for adults and families shall be limited to those specified in WAC 388-15-010(1)(b), (c), and (d). Also see WAC 388-15-010(2). [Statutory Authority: RCW 74.08.090. 81-18-045 (Order 1697), § 388-15-207, filed 8/28/81; 81-06-063 (Order 1618), § 388-15-207, filed 3/4/81.]

WAC 388-15-208 Definitions. (1) "Chore services" consist of light household tasks and/or personal care, as defined by the department, which eligible persons are unable to do for themselves.

(2) "Contracted program" denotes that method of hourly chore service delivery where the contractor is responsible for recruiting, supervising, training, and paying the chore provider.

(3) "Individual provider program" denotes that method of chore service delivery where the client employs and supervises the chore provider. Payment is made to the client, who in turn pays the provider.

(4) "Attendant care" in the chore services program is the service provided to eligible persons (a) who need full-time care and, (b) require assistance that cannot be scheduled with personal care tasks, e.g., toileting, ambulation, wheelchair transfer and/or (c) need protective supervision when it is dangerous for a person to be left alone. Protective supervision does not include responsibilities that a legal guardian should assume. Attendant care is authorized a monthly rate payment in the individual provider program.

(5) "Hourly care" in the chore services program is the service provided to eligible persons who need assistance that can be scheduled with household and/or personal care tasks. A maximum of one hundred sixteen hours per month per client can be provided. Hourly services do not include attendant care.

(6) "Own home" shall mean the individual's present or intended place of residence whether that is in a building rented or owned by the client or in the home of another person. Chore services are provided within the confines of the home property except for essential shopping, errands, and transportation necessary for the completion of authorized tasks.

(7) The "client review questionnaire" is an adult assessment form which determines the amount and type of chore services to be provided. The form is used by department staff to identify, document, and score the allowable chore service needs of all eligible persons.

(8) The "CRQ authorization ceiling chart" indicates the maximum number of hours that can be authorized for a client's score.

(9) "Personal care" shall mean such tasks as meal preparation, dressing/undressing, care of appearance, body care, bed transfer, ambulation, wheelchair transfer, bathing, toileting, and reminding to take medicines which a person would normally provide for himself or herself and are necessary to maintain a person in his or her own home. Sterile procedures and administering medications by injection are not authorized personal care tasks, unless the individual provider program worker is a licensed health practitioner or a member of the client's immediate family.

(10) "Shared living arrangement" occurs when two or more adults share expenses and live together in his or her own home with common facilities, such as living, cooking, and eating areas. [Statutory Authority: RCW 74.08.090. 82-23-056 (Order 1904), § 388-15-208, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-208, filed 8/28/81; 81-11-044 (Order 1652), § 388-15-208, filed 5/20/81; 81-06-063 (Order 1618), § 388-15-208, filed 3/4/81.]

WAC 388-15-209 Chore services--Eligible individuals. (1) Service eligibility.

(a) Chore services are for adults aged eighteen and over, although in some instances families may be served.

(b) Chore services are determined through the completion and scoring of the client review questionnaire. (Refer to WAC 388-15-212).

(c) Families may receive chore services when the normal caretaker of the children:

(i) Is in the home but unable to physically care for the children;

(ii) Is in the home and physically unable to perform the necessary household tasks;

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

(2) Financial eligibility.

(a) Persons receiving chore services must meet the financial eligibility requirements established by the department.

(b) For families to receive services, the total family income must be at or below the financial eligibility requirements established by the department. Children are not financially eligible in the children's own right. The children are part of the family unit.

(c) An adult or family at risk of being placed in a residential care facility is eligible to receive the level of hourly or attendant care chore services as determined by WAC 388-15-212 who are adult recipients of supplemental security income and/or state supplementation or who has gross family income, adjusted for family size, not in excess of thirty percent of state median income. Adult protective services clients are eligible to receive chore services without regard to income, if these services are an integral but subordinate part of the adult protective services plan. These services are limited to a maximum of ninety days during any twelve-month period.

(d) An adult or family at risk of being placed in a residential care facility is eligible to receive a reduced level of hours in the hourly chore services program or a reduced level of payment in the attendant care chore services program who has a gross family income, adjusted for family size between thirty percent and forty percent of the state median income. See table in subsection (2)(d) of this section:

| Percentage of State Median Income | Percentage of Monthly Rate Payment Provided by the Department in the Attendant Care Chore Services Program |
|-----------------------------------|--|
| Above 30 through 31 | 99 |
| Above 31 through 32 | 98 |
| Above 32 through 33 | 97 |

| Percentage of State Median Income | Percentage of Monthly Rate Payment Provided by the Department in the Attendant Care Chore Services Program |
|-----------------------------------|--|
| Above 33 through 34 | 96 |
| Above 34 through 35 | 95 |
| Above 35 through 36 | 94 |
| Above 36 through 37 | 93 |
| Above 37 through 38 | 92 |
| Above 38 through 39 | 91 |
| Above 39 through 40 | 90 |

HOURS OF CHORE SERVICE TO BE AUTHORIZED BASED ON INCOME AND LEVEL OF SERVICE NEEDED

| HOURS AUTHORIZED BY CRQ | INCOME ELIGIBILITY LEVEL (PERCENT OF STATE MEDIAN INCOME) | | | | | | | | | | |
|-------------------------|---|----|----|----|----|----|----|----|----|----|--|
| | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 | |
| 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | |
| 2 | 2 | 2 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | |
| 3 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 1 | 1 | 1 | |
| 4 | 3 | 3 | 3 | 3 | 2 | 2 | 2 | 2 | 2 | 2 | |
| 5 | 4 | 4 | 4 | 3 | 3 | 3 | 3 | 2 | 2 | 2 | |
| 6 | 5 | 4 | 4 | 4 | 4 | 3 | 3 | 3 | 2 | 2 | |
| 7 | 6 | 5 | 5 | 5 | 4 | 4 | 4 | 3 | 3 | 2 | |
| 8 | 6 | 6 | 6 | 5 | 5 | 4 | 4 | 4 | 3 | 3 | |
| 9 | 7 | 7 | 6 | 6 | 5 | 5 | 5 | 4 | 4 | 4 | |
| 10 | 8 | 8 | 7 | 7 | 6 | 6 | 5 | 5 | 4 | 4 | |
| 11 | 9 | 8 | 8 | 7 | 7 | 6 | 6 | 5 | 4 | 4 | |
| 12 | 10 | 9 | 8 | 8 | 7 | 7 | 6 | 5 | 5 | 4 | |
| 13 | 11 | 10 | 9 | 8 | 8 | 7 | 7 | 6 | 5 | 5 | |
| 14 | 12 | 11 | 10 | 9 | 8 | 8 | 7 | 6 | 6 | 5 | |
| 15 | 13 | 11 | 11 | 10 | 9 | 8 | 8 | 7 | 6 | 5 | |
| 16 | 14 | 12 | 11 | 10 | 10 | 9 | 8 | 7 | 6 | 6 | |
| 17 | 15 | 13 | 12 | 11 | 10 | 9 | 9 | 8 | 7 | 6 | |
| 18 | 16 | 14 | 13 | 12 | 11 | 10 | 9 | 8 | 7 | 6 | |
| 19 | 17 | 15 | 13 | 12 | 11 | 10 | 10 | 9 | 8 | 7 | |
| 20 | 18 | 16 | 14 | 13 | 12 | 11 | 10 | 9 | 8 | 7 | |
| 21 | 19 | 17 | 15 | 14 | 13 | 12 | 11 | 9 | 8 | 7 | |
| 22 | 20 | 18 | 16 | 15 | 13 | 12 | 11 | 10 | 9 | 8 | |
| 23 | 21 | 19 | 17 | 16 | 14 | 13 | 12 | 10 | 9 | 8 | |
| 24 | 22 | 20 | 18 | 17 | 15 | 13 | 12 | 11 | 10 | 8 | |
| 25 | 23 | 21 | 19 | 18 | 16 | 14 | 13 | 11 | 10 | 9 | |

HOURS OF CHORE SERVICE TO BE AUTHORIZED BASED ON INCOME
AND LEVEL OF SERVICE NEEDED

| HOURS AUTHORIZED BY CRQ | INCOME ELIGIBILITY LEVEL (PERCENT OF STATE MEDIAN INCOME) | | | | | | | | | |
|-------------------------------|---|----|----|----|----|----|----|----|----|----|
| | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |
| 26 | 24 | 22 | 20 | 19 | 17 | 15 | 14 | 12 | 10 | 9 |
| 27 | 25 | 23 | 21 | 20 | 18 | 16 | 15 | 13 | 11 | 10 |
| 28 | 26 | 24 | 22 | 21 | 19 | 17 | 16 | 14 | 12 | 11 |
| 29 | 27 | 25 | 23 | 22 | 20 | 18 | 17 | 15 | 13 | 12 |
| 30 | 28 | 26 | 24 | 23 | 21 | 19 | 18 | 16 | 14 | 13 |
| 31 | 29 | 27 | 25 | 24 | 22 | 20 | 19 | 17 | 15 | 14 |
| 32 | 30 | 28 | 26 | 25 | 23 | 21 | 20 | 18 | 16 | 15 |
| 33 | 31 | 29 | 27 | 26 | 24 | 22 | 21 | 19 | 17 | 16 |
| 34 | 32 | 30 | 28 | 27 | 25 | 23 | 22 | 20 | 18 | 17 |
| 35 | 33 | 31 | 29 | 28 | 26 | 24 | 23 | 21 | 19 | 18 |
| 36 | 34 | 32 | 30 | 29 | 27 | 25 | 24 | 22 | 20 | 19 |
| 37 | 35 | 33 | 31 | 30 | 28 | 26 | 25 | 23 | 21 | 20 |
| 38 | 36 | 34 | 32 | 31 | 29 | 27 | 26 | 24 | 22 | 21 |
| 39 | 37 | 35 | 33 | 32 | 30 | 28 | 27 | 25 | 23 | 22 |
| 40 | 38 | 36 | 34 | 33 | 31 | 29 | 28 | 26 | 24 | 23 |
| 41 | 39 | 37 | 35 | 34 | 32 | 30 | 29 | 27 | 25 | 24 |
| 42 | 40 | 38 | 36 | 35 | 33 | 31 | 30 | 28 | 26 | 25 |
| 43 | 41 | 39 | 37 | 36 | 34 | 32 | 31 | 29 | 27 | 26 |
| 44 | 42 | 40 | 38 | 37 | 35 | 33 | 32 | 30 | 28 | 27 |
| 45 | 43 | 41 | 39 | 38 | 36 | 34 | 33 | 31 | 29 | 28 |
| 46 | 44 | 42 | 40 | 39 | 37 | 35 | 34 | 32 | 30 | 29 |
| 47 | 45 | 43 | 41 | 40 | 38 | 36 | 35 | 33 | 31 | 30 |
| 48 | 46 | 44 | 42 | 41 | 39 | 37 | 36 | 34 | 32 | 31 |
| 49 | 47 | 45 | 43 | 42 | 40 | 38 | 37 | 35 | 33 | 32 |
| 50 | 48 | 46 | 44 | 43 | 41 | 39 | 38 | 36 | 34 | 33 |
| 51 | 49 | 47 | 45 | 44 | 42 | 40 | 39 | 37 | 35 | 34 |
| 52 | 50 | 48 | 46 | 45 | 43 | 41 | 40 | 38 | 36 | 35 |
| 53 | 51 | 49 | 47 | 46 | 44 | 42 | 41 | 39 | 37 | 36 |
| 54 | 52 | 50 | 48 | 47 | 45 | 43 | 42 | 40 | 38 | 37 |
| 55 | 53 | 51 | 49 | 48 | 46 | 44 | 43 | 41 | 39 | 38 |
| 56 | 54 | 52 | 50 | 49 | 47 | 45 | 44 | 42 | 40 | 39 |
| 57 | 55 | 53 | 51 | 50 | 48 | 46 | 45 | 43 | 41 | 40 |
| 58 | 56 | 54 | 52 | 51 | 49 | 47 | 46 | 44 | 42 | 41 |
| 59 | 57 | 55 | 53 | 52 | 50 | 48 | 47 | 45 | 43 | 42 |
| 60 | 58 | 56 | 54 | 53 | 51 | 49 | 48 | 46 | 44 | 43 |
| 61 | 59 | 57 | 55 | 54 | 52 | 50 | 49 | 47 | 45 | 44 |
| 62 | 60 | 58 | 56 | 55 | 53 | 51 | 50 | 48 | 46 | 45 |
| 63 | 61 | 59 | 57 | 56 | 54 | 52 | 51 | 49 | 47 | 46 |
| 64 | 62 | 60 | 58 | 57 | 55 | 53 | 52 | 50 | 48 | 47 |
| 65 | 63 | 61 | 59 | 58 | 56 | 54 | 53 | 51 | 49 | 48 |

HOURS OF CHORE SERVICE TO BE AUTHORIZED BASED ON INCOME
AND LEVEL OF SERVICE NEEDED

| HOURS AUTHORIZED BY CRQ | INCOME ELIGIBILITY LEVEL (PERCENT OF STATE MEDIAN INCOME) | | | | | | | | | |
|-------------------------------|---|-----|----|----|----|----|----|----|----|----|
| | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |
| 66 | 64 | 62 | 60 | 59 | 57 | 55 | 54 | 52 | 50 | 49 |
| 67 | 65 | 63 | 61 | 60 | 58 | 56 | 55 | 53 | 51 | 50 |
| 68 | 66 | 64 | 62 | 61 | 59 | 57 | 56 | 54 | 52 | 51 |
| 69 | 67 | 65 | 63 | 62 | 60 | 58 | 57 | 55 | 53 | 52 |
| 70 | 68 | 66 | 64 | 63 | 61 | 59 | 58 | 56 | 54 | 53 |
| 71 | 69 | 67 | 65 | 64 | 62 | 60 | 59 | 57 | 55 | 54 |
| 72 | 70 | 68 | 66 | 65 | 63 | 61 | 60 | 58 | 56 | 55 |
| 73 | 71 | 69 | 67 | 66 | 64 | 62 | 61 | 59 | 57 | 56 |
| 74 | 72 | 70 | 68 | 67 | 65 | 63 | 62 | 60 | 58 | 57 |
| 75 | 73 | 71 | 69 | 68 | 66 | 64 | 63 | 61 | 59 | 58 |
| 76 | 74 | 72 | 70 | 69 | 67 | 65 | 64 | 62 | 60 | 59 |
| 77 | 75 | 73 | 71 | 70 | 68 | 66 | 65 | 63 | 61 | 60 |
| 78 | 76 | 74 | 72 | 71 | 69 | 67 | 66 | 64 | 62 | 61 |
| 79 | 77 | 75 | 73 | 72 | 70 | 68 | 67 | 65 | 63 | 62 |
| 80 | 78 | 76 | 74 | 73 | 71 | 69 | 68 | 66 | 64 | 63 |
| 81 | 79 | 77 | 75 | 74 | 72 | 70 | 69 | 67 | 65 | 64 |
| 82 | 80 | 78 | 76 | 75 | 73 | 71 | 70 | 68 | 66 | 65 |
| 83 | 81 | 79 | 77 | 76 | 74 | 72 | 71 | 69 | 67 | 66 |
| 84 | 82 | 80 | 78 | 77 | 75 | 73 | 72 | 70 | 68 | 67 |
| 85 | 83 | 81 | 79 | 78 | 76 | 74 | 73 | 71 | 69 | 68 |
| 86 | 84 | 82 | 80 | 79 | 77 | 75 | 74 | 72 | 70 | 69 |
| 87 | 85 | 83 | 81 | 80 | 78 | 76 | 75 | 73 | 71 | 70 |
| 88 | 86 | 85 | 82 | 81 | 79 | 77 | 76 | 74 | 72 | 71 |
| 89 | 87 | 85 | 83 | 82 | 80 | 78 | 77 | 75 | 73 | 72 |
| 90 | 88 | 86 | 84 | 83 | 81 | 79 | 78 | 76 | 74 | 73 |
| 91 | 89 | 87 | 85 | 84 | 82 | 80 | 79 | 77 | 75 | 74 |
| 92 | 90 | 88 | 86 | 85 | 83 | 81 | 80 | 78 | 76 | 75 |
| 93 | 91 | 89 | 87 | 86 | 84 | 82 | 81 | 79 | 77 | 76 |
| 94 | 92 | 90 | 88 | 87 | 85 | 83 | 82 | 80 | 78 | 77 |
| 95 | 93 | 91 | 89 | 88 | 86 | 84 | 83 | 81 | 79 | 78 |
| 96 | 94 | 92 | 90 | 89 | 87 | 85 | 84 | 82 | 80 | 79 |
| 97 | 95 | 93 | 91 | 90 | 88 | 86 | 85 | 83 | 81 | 80 |
| 98 | 96 | 94 | 92 | 91 | 89 | 87 | 86 | 84 | 82 | 81 |
| 99 | 97 | 95 | 93 | 92 | 90 | 88 | 87 | 85 | 83 | 82 |
| 100 | 98 | 96 | 94 | 93 | 91 | 89 | 88 | 86 | 84 | 83 |
| 101 | 99 | 97 | 95 | 94 | 92 | 90 | 89 | 87 | 85 | 84 |
| 102 | 100 | 98 | 96 | 95 | 93 | 91 | 90 | 88 | 86 | 85 |
| 103 | 101 | 99 | 97 | 96 | 94 | 92 | 91 | 89 | 87 | 86 |
| 104 | 102 | 100 | 98 | 97 | 95 | 93 | 92 | 90 | 88 | 87 |
| 105 | 103 | 101 | 99 | 98 | 96 | 94 | 93 | 91 | 89 | 88 |

HOURS OF CHORE SERVICE TO BE AUTHORIZED BASED ON INCOME AND LEVEL OF SERVICE NEEDED

| HOURS AUTHORIZED BY CRQ | INCOME ELIGIBILITY LEVEL (PERCENT OF STATE MEDIAN INCOME) | | | | | | | | | |
|-------------------------|---|-----|-----|-----|-----|-----|-----|-----|-----|----|
| | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |
| 106 | 104 | 102 | 100 | 99 | 97 | 95 | 94 | 92 | 90 | 89 |
| 107 | 105 | 103 | 101 | 100 | 98 | 96 | 95 | 93 | 91 | 90 |
| 108 | 106 | 104 | 102 | 101 | 99 | 97 | 96 | 94 | 92 | 91 |
| 109 | 107 | 105 | 103 | 102 | 100 | 98 | 97 | 95 | 93 | 92 |
| 110 | 108 | 106 | 104 | 103 | 101 | 99 | 98 | 96 | 94 | 93 |
| 111 | 109 | 107 | 105 | 104 | 102 | 100 | 99 | 97 | 95 | 94 |
| 112 | 110 | 108 | 106 | 105 | 103 | 101 | 100 | 98 | 96 | 95 |
| 113 | 111 | 109 | 107 | 106 | 104 | 102 | 101 | 99 | 97 | 96 |
| 114 | 112 | 110 | 108 | 107 | 105 | 103 | 102 | 100 | 98 | 97 |
| 115 | 113 | 111 | 109 | 108 | 106 | 104 | 103 | 101 | 99 | 98 |
| 116 | 114 | 112 | 110 | 109 | 107 | 105 | 104 | 102 | 100 | 99 |

(e) An adult or family who has gross family income, adjusted for family size between forty and fifty-seven percent of the state median income is severely handicapped, at risk of being placed in a residential care facility, and in need of attendant care may be eligible to receive a reduced level of payment for attendant care. See table in subsection (2)(e) of this section. The client or applicant shall provide verification of the need for attendant care and risk of being placed in a residential care facility by producing a statement from the client's physician and departmental staff.

Requests shall be acted upon by the department within thirty days. The client or applicant shall be advised of the decision of the department and his or her right to a review of the decision.

Approved requests shall be reviewed every ninety days.

REDUCED MONTHLY PAYMENT FOR ATTENDANT CARE CLIENTS

| Percentage of State Median Income | Percentage of Monthly Rate Payment Provided by the Department in the Attendant Care Chore Services Program |
|-----------------------------------|--|
| Above 40 through 41 | 88 |
| Above 41 through 42 | 85 |
| Above 42 through 43 | 80 |
| Above 43 through 44 | 75 |
| Above 44 through 45 | 70 |
| Above 45 through 46 | 65 |
| Above 46 through 47 | 60 |
| Above 47 through 48 | 55 |
| Above 48 through 49 | 50 |
| Above 49 through 50 | 45 |
| Above 50 through 51 | 40 |

| Percentage of State Median Income | Percentage of Monthly Rate Payment Provided by the Department in the Attendant Care Chore Services Program |
|-----------------------------------|--|
| Above 51 through 52 | 35 |
| Above 52 through 53 | 30 |
| Above 53 through 54 | 25 |
| Above 54 through 55 | 20 |
| Above 55 through 56 | 15 |
| Above 56 through 57 | 10 |

(f) Severely handicapped clients or applicants in the attendant care chore services program who have gross family income, adjusted for family size between thirty and fifty-seven percent of the state median income who are at risk of being placed in a residential care facility and cannot afford to pay the client's or applicant's share of the monthly rate, may be eligible to receive an additional amount up to the client's share of the monthly rate. The client shall provide verification of the need for attendant care and risk of being placed in a residential care facility by producing a statement from the client's physician and departmental staff. The client shall produce a statement showing why he or she cannot afford to pay all or part of his or her share of the monthly rate.

Requests shall be acted upon by the department within thirty days. The client or applicant shall be advised of the decision of the department and his or her right to a review of the decision.

Approved requests shall be reviewed every ninety days.

(g) An adult or family who has gross family income adjusted for family size, above fifty-seven percent of the

state median income, severely handicapped, and at risk of being placed in a residential care facility may be authorized to receive attendant care. Thirty persons at any one time may receive attendant care services in accordance with RCW 74.08.541.

The client or applicant shall provide verification of the need for attendant care and risk of being placed in a residential care facility, by producing a statement from the client's physician and departmental staff. The client or applicant shall produce a statement showing what part of the monthly rate the client can pay.

Requests shall be acted upon by the department within thirty days. The client or applicant shall be advised of the decision of the department and his or her right to a review of the decision.

Approved requests shall be reviewed every ninety days.

(h) Clients or applicants are not eligible for chore services if the clients or applicants have resources in excess of ten thousand dollars for one person, fifteen thousand dollars for a two-person family. Another one thousand dollars is allowed for each additional family member. Adult protective services clients who are receiving chore services as an integral but subordinate part of an adult protective services plan and supplemental security income and/or state supplementation recipients are exempt from the resource requirement in this section. 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.

The following resources shall be considered in determining the value of a client's or applicant's resources:

- (i) Checking accounts;
- (ii) Savings accounts;
- (iii) Certificates of deposit;
- (iv) Money markets;
- (v) Negotiable stocks and bonds;
- (vi) Latest assessed value of lots or property not attached to residence;
- (vii) Market value of a boat(s), recreational vehicle(s), or excess automobiles;
- (viii) Liquid assets: Such as cash, gold, silver and other items of an investment and negotiable nature.

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

- (i) A home and lot normal for the community where the client or applicant resides;
- (ii) Used and useful household furnishings, personal clothing, and one automobile per client;
- (iii) Personal property of great sentimental value;
- (iv) Real or personal property used by the applicant or recipient to earn income or to rehabilitate himself or herself;
- (v) One cemetery plot for each member of the family unit;

(vi) Cash surrender value of life insurance. [Statutory Authority: RCW 74.08.090, 82-23-056 (Order 1904), § 388-15-209, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-209, filed 8/28/81; 81-06-063 (Order 1618), § 388-15-209, filed 3/4/81.]

WAC 388-15-210 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-211 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-212 Service determinations. (1) Chore services need and amount determination for all applicants and recipients of chore services will be made by using the client review questionnaire on each adult.

(2) Department staff will administer the client review questionnaire.

(3) When administering the client review questionnaire, department staff will take into account the client's risk of being placed in a residential care facility and ability to perform activities of daily living, living conditions, and arrangements, and the availability and use of alternative resources, including immediate family, other relatives, neighbors, friends, community programs, and volunteers.

(4)(a) The client review questionnaire is a series of questions designed to determine the client's need for the tasks which are available from the chore program. In answering each question, either "N," "M," "S," or "T" is circled to indicate the extent of assistance the client needs from the chore program for each task. "N," "M," "S," or "T" are defined as:

(i) N = Needs no assistance: The client is either able to perform this task without help or is already receiving or could receive all the help needed from other sources.

(ii) M = Needs minimal assistance: The client cannot perform this task without help and needs a minimal amount of assistance from the chore program in addition to whatever help may or may not be received from other sources.

(iii) S = Needs substantial assistance: The client cannot perform this task without help and needs a substantial amount of assistance from the chore program in addition to whatever help may or may not be received from other sources.

(iv) T = Needs total assistance: Client is completely unable to perform this task and is not now receiving any help and needs total assistance from the chore program.

(b) Points are awarded for each task based on the degree of assistance needed from the chore services program. The number of points available for each task is set forth in subsection (5) of this section. The point total is converted into maximum allowable hours using the table set forth in subsection (6) of this section. For clients needing attendant care, as defined in subsection (5) of this section, the amount of services authorized is based on the total number of hours per month the chore provider must be with the client.

(5) The allowable chore services program tasks, as defined by the department, are scored as follows:

(a) Escort/transport to medical services. The scoring is as follows, based on the need and frequency of service: N = 0, M = 1, S = 2, T = 3.

(b) Essential shopping and errands. The scoring is based on need and frequency of service: N = 0, M = 5, S = 10, T = 15. When the chore provider must perform these tasks for the client because the client is unable to go along, the scoring is N = 0, M = 1, S = 3, and T = 5.

(c) Splitting/stacking/carrying wood. The scoring is N = 0, M = 3, S = 5, and T = 7. This task is available only to persons who use wood as their sole source of fuel for heat and/or cooking.

(d) Laundry. The scoring is N = 0, M = 1, S = 2, and T = 3. If there are no laundry facilities in the client's own home, additional points are awarded. The scoring for the additional points is N = 0, M = 3, S = 5, and T = 7.

(e) Housework. Housework is limited to tasks necessary to protect the client's health and safety and to those areas of the home actually used by the client, i.e., kitchen, bathroom, bedroom, living room, and dining room. The scoring is N = 0, M = 1, S = 2, and T = 3.

(f) Cooking. The scoring is based on the preparation of three meals, as follows:

(i) Breakfast N = 0, M = 4, S = 7, T = 10.

(ii) Light meal N = 0, M = 4, S = 7, T = 10.

(iii) Main meal N = 0, M = 5, S = 10, T = 15.

(g) Feeding. The scoring is based on feeding three meals, as follows:

(i) Breakfast N = 0, M = 4, S = 7, T = 10.

(ii) Light meal N = 0, M = 4, S = 7, T = 10.

(iii) Main meal N = 0, M = 5, S = 10, T = 15.

(h) Dressing/undressing. The scoring is N = 0, M = 4, S = 7, and T = 10.

(i) Care of appearance. The scoring is N = 0, M = 1, S = 3, and T = 5.

(j) Body care. The scoring is N = 0, M = 5, S = 10, and T = 15.

(k) Bed transfer. The scoring is N = 0, M = 1, S = 3, and T = 5.

(l) Ambulation. The scoring is N = 0, M = 4, S = 7, and T = 10.

(m) Wheelchair transfer. The scoring is N = 0, M = 1, S = 3, and T = 5.

(n) Bathing. The scoring is N = 0, M = 4, S = 7, and T = 10.

(o) Toileting. The scoring is N = 0, M = 5, S = 10, and T = 15.

(p) Remind to take medicines. The scoring for reminding to take medication is N = 0, M = 1, S = 2, and T = 3.

(q) Family care. The family care question has four parts. Each part considers the ages, number, level of responsibility of the children, and the presence of a spouse when determining the need for chore services.

(i) Part one determines the need for additional help cleaning the household because of the presence of children. The scoring is N = 0, M = 4, S = 7, and T = 10.

(ii) Part two determines the need for escort and transportation, laundry services, meal preparation and

shopping, and bathing and dressing for the client's children. The scoring is N = 0, M = 5, S = 10, and T = 15.

(iii) Part three determines the need for physical supervision of the children. When the client is in the home, but unable to supervise, the scoring is N = 0, M = 5, S = 10, and T = 15.

(iv) Part four determines the need for supervision of children when the client is temporarily absent from the home because of hospitalization. This question is not scored. The number of days and the number of hours per day that the children need supervision is recorded. The monthly authorization is the total number of hours required for supervision. The chore provider performs household and personal care tasks for the children during the hours of supervision. Supervision of children when the client is absent from the home must not exceed two weeks during any six-month period.

(r) Attendant care. The chore provider is available to help a client who requires assistance with such unscheduled tasks as toileting, ambulation, and wheelchair transfer or supervises or watches a client who cannot safely be left alone. Protective supervision may be necessary when a person may hurt himself or herself, others, or damage property if left alone, or is confused and may wander away, turn on a stove and forget to turn it off, or becomes easily disoriented. The chore provider performs any household or personal care tasks or gives assistance with activities of daily living during the authorized attendant care hours. The scoring is based on the number of days per month and hours per day during which the chore provider must be with a client in need of attendant care. The authorization is the total number of attendant care hours required by the client each month.

(6) Except for cases where attendant care or supervision of children when the client is temporarily absent are required, as defined in subsection (5)(q)(iv) of this section, the amount of hours of chore services authorized per month shall be determined by translating the total number of points awarded on the client review questionnaire into a monthly authorization, utilizing the following CRQ authorization ceiling chart:

| CRQ SCORE | CEILING HOURS PER MONTH |
|-----------|-------------------------|
| 1 - 4 | 5 |
| 5 - 9 | 8 |
| 10 - 14 | 11 |
| 15 - 19 | 14 |
| 20 - 24 | 18 |
| 25 - 29 | 21 |
| 30 - 34 | 24 |
| 35 - 39 | 28 |
| 40 - 44 | 31 |
| 45 - 49 | 34 |
| 50 - 54 | 37 |
| 55 - 59 | 41 |
| 60 - 64 | 44 |
| 65 - 69 | 47 |
| 70 - 74 | 51 |

| CRQ SCORE | CEILING HOURS PER MONTH |
|-----------|-------------------------|
| 75 - 79 | 54 |
| 80 - 84 | 57 |
| 85 - 89 | 60 |
| 90 - 94 | 64 |
| 95 - 99 | 67 |
| 100 - 104 | 70 |
| 105 - 109 | 74 |
| 110 - 114 | 77 |
| 115 - 119 | 80 |
| 120 - 124 | 83 |
| 125 - 129 | 87 |
| 130 - 134 | 90 |
| 135 - 139 | 93 |
| 140 - 144 | 97 |
| 145 - 149 | 100 |
| 150 - 154 | 103 |
| 155 - 159 | 106 |
| 160 - 164 | 110 |
| 165 - 169 | 113 |
| 170 - 174 | 116 |

The department may authorize fewer hours according to the client's individual circumstances and the provisions under WAC 388-15-215(8). Attendant care and supervision of children when the client is temporarily absent are authorized for the number of days per month and hours per day the services are required.

(7) The client or applicant may request approval from the department to exceed the ceiling hours authorized per month, as determined in subsection (6) of this section. The department shall authorize the number of additional hours not to exceed one hundred sixteen hours per month per client in the hourly program when:

(a) There are circumstances of a demonstrated duration, frequency, or severity which require additional hours of allowable chore services to avoid adverse effects to his or her health or safety; and,

(b) The need for additional hours is specific and clearly measurable.

(c) Hours are available under provisions of WAC 388-15-215(8).

(8) All clients or applicants shall be informed in writing of the process as defined in subsection (7) of this section and shall have the right to request from the department approval to exceed the authorized hours as set forth in subsection (6) of this section.

(9) When the department denies a request for additional hours or makes approval for fewer additional hours than requested, the client or applicant shall receive notice of his or her right to contest the decision pursuant to chapter 388-08 WAC. The department shall approve or deny requests within thirty days.

(10) Chore services may be provided either through the individual-provider-program or through the contracted program, as deemed most appropriate by department policy established by the state office. [Statutory Authority: RCW 74.08.090, 82-23-056 (Order 1904), §

388-15-212, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-212, filed 8/28/81; 81-11-044 (Order 1652), § 388-15-212, filed 5/20/81; 81-06-063 (Order 1618), § 388-15-212, filed 3/4/81; 79-01-042 (Order 1361), § 388-15-212, filed 12/21/78.]

WAC 388-15-213 Payment. (1) Payment may be made for services performed by a relative, but payment to a spouse, father, mother, son or daughter can be made only when the person:

(a) Has to give up paid employment (more than thirty hours per week) to give the service, or

(b) Would otherwise need to take paid employment (more than thirty hours per week), or

(c) Would otherwise be financially eligible to receive general assistance to meet his or her own need.

(2) Payment to the spouse providing chore services to an incapacitated, eligible client shall not exceed the amount of a one-person standard for a continuing general assistance grant. Refer to WAC 388-29-100.

(3) In the contracted program, payment is made to the contractor who directly pays the chore provider. (Refer to WAC 388-15-208.)

(4) In the individual provider program, payment is made to the client who pays the chore provider. (Refer to WAC 388-15-208.)

(a) An hourly wage is paid for the actual number of hours worked on all chore services tasks (maximum of one hundred sixteen hours per month per client), except for attendant care and supervision of children when the client is temporarily absent.

(i) The hourly wage rate must at least comply with federal minimum wage guidelines.

(ii) The maximum hourly wage rate shall not exceed the amount set by the community services office (CSO) administration and should consider the prevailing rate in the community for similar services but shall not exceed three dollars and seventy-five cents per hour.

(b) A monthly rate is paid for attendant care and supervision of children. The monthly rate is determined by the service worker after discussion with the client and chore provider, but it shall not exceed the lesser of the following, a maximum of five hundred ten dollars per month or the amount determined by the table in subsection (4)(b) of this section:

MONTHLY RATE DETERMINATION

| HOURS OF SERVICE PER DAY | PAYMENT PER DAY |
|--------------------------|-----------------|
| (30 DAYS PER MONTH) | |
| 16 - 24 | up to \$17 |
| 12 - 15 | up to \$15 |
| 8 - 11 | up to \$12 |
| 4 - 7 | up to \$ 8 |
| 2 - 3 | up to \$ 5 |
| 1 | up to \$ 3 |

Another fifty dollars per month is added for each additional client authorized for service in the household.

(c) An individual provider program eligible client or applicant may request approval from the department to exceed the maximum monthly rate set by the department or the maximum hourly wage established by the regional office. The department shall authorize a higher payment rate necessary to maintain the client or applicant in his or her own home when:

(i) The need for the higher payment is specific and clearly measurable; and,

(ii) The client or applicant provides documentation that services are not available at the established maximum payment rate; and,

(iii) The client or applicant has made a reasonable effort to find a qualified provider at the established maximum payment rate; and,

(iv) The total cost for the chore services does not exceed the lesser of the following, a maximum of seven hundred twenty dollars or the amount determined by the table in (4)(b) and (4)(c)(v):

| HOURS OF SERVICE PER DAY | ADDITIONAL PAYMENT PER DAY |
|--------------------------|----------------------------|
| (30 DAYS PER MONTH) | |
| 16 - 24 | up to \$7 |
| 12 - 15 | up to \$5 |
| 8 - 11 | up to \$4 |
| 4 - 7 | up to \$3 |
| 2 - 3 | up to \$2 |
| 1 | up to \$1 |

(d) All clients or applicants shall be informed in writing of the process as defined in subsection (4)(c) of this section and shall have the right to request from the department approval to exceed the maximum monthly or hourly rate.

(e) When the department denies a request to exceed the maximum payment rates or makes approval at a lesser rate than requested by the client or applicant, the client or applicant shall receive notice of his or her right to contest the decision pursuant to chapter 388-08 WAC. The department shall approve or deny requests within thirty days.

(f) When the client provides board and room to the chore provider, the department may make a payment to partially reimburse the cost of this expense. The payment shall not exceed an allowance established by the department and shall be prorated by days of service.

(g) Payment is made only after service delivery has been verified. [Statutory Authority: RCW 74.08.090. 82-23-056 (Order 1904), § 388-15-213, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-213, filed 8/28/81; 81-06-063 (Order 1618), § 388-15-213, filed 3/4/81; Order 1238, § 388-15-213, filed 8/31/77.]

WAC 388-15-215 Limitations on program. (1) The chore services program is not a teaching or companionship program and cannot be used for the purpose of delivering skilled nursing care or developing social,

behavioral, recreational, communication or other type skill. Companionship means being with a person in his or her home for the purpose of preventing loneliness or to accompany him or her outside the home, except on basic errands or medical appointments or activities of daily living for attendant care clients.

(2) Chore services cannot be provided in a group home, congregate care facility, intermediate care facility, skilled nursing facility, adult family home or foster home. Shared living arrangements are not considered group homes.

(3) Chore services are provided for the person needing and authorized to receive the service, not for other household members unless the services are part of the total chore services plan which includes the household members as eligible service clients.

(4) Chore services are not provided when community resources or family, neighbors, friends, or volunteers are available and willing to provide the service without charge.

(5) All approvals for additional hours and higher payment rates are reevaluated by the department after a period of up to one year, as determined by the department. These reevaluations are continued, denied, or altered to correspond with the client's present chore services need. The client shall receive notice of his or her right to contest reevaluations which are denied or approved at a lower rate of payment or fewer service hours than initially approved.

(6) Chore services cannot be used for child care for working parent(s).

(7) In family care, the chore services provider may not act as a parent substitute or make major decisions affecting the children.

(8) A maximum of two hundred twenty-four thousand hours per month can be authorized in the hourly chore services program. Each community services office is allocated by the regional office a monthly lid of chore services hours for the hourly chore services program in accordance with RCW 74.08.541. Eligible clients or applicants can receive service if hours are available at the community services office. Clients or applicants are classified into three priorities: First priority, attendant care and adult protective services clients or applicants; second priority, personal care clients or applicants; third priority, clients or applicants requiring household tasks only (escort, transport, shopping, errands, housework, laundry, splitting wood). Clients or applicants in the community services office are provided service based on the client's or applicant's priority and hours available. [Statutory Authority: RCW 74.08.090. 82-23-056 (Order 1904), § 388-15-215, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-215, filed 8/28/81; 81-06-063 (Order 1618), § 388-15-215, filed 3/4/81; Order 1238, § 388-15-215, filed 8/31/77.]

WAC 388-15-217 Chore or attendant care services for employed disabled adults. (1) Notwithstanding other provisions of WAC 388-15-207 through 388-15-215, employed disabled adults shall be eligible for chore or

attendant care services as provided in this section, with cost participation, as authorized by RCW 74.08.570.

(2) The following definitions shall apply for purposes of this section:

(a) "Employed" means engaged on a regular monthly basis in any work activity for which monetary compensation is obtained.

(b) "Total income" is the sum of an applicant's unearned income plus gross earned income.

(3) To be eligible for chore or attendant care services under this section, a client or applicant must meet all of the following conditions:

(a) Be eighteen years of age or older.

(b) Be a resident of the state of Washington.

(c) Be determined by the department to be disabled as specified in subsection (4) of this section.

(d) Be willing to submit to such examinations as are deemed necessary by the department to establish the extent and nature of the disability.

(e) Be employed.

(f) Have earned income which is less than forty percent of the state median income after subtracting work expenses, the cost of chore services, and any medical expenses which are not covered through insurance or another source and such medical expenses are incurred to allow the disabled person to work.

(g) Have chore or attendant care need as determined by the department using the client review questionnaire.

(h) Not have unearned income exceeding forty percent of the state median income or be an adult supplemental security income and/or state supplementation recipient.

(i) Not have resources exceeding the limitations specified for the chore services program in WAC 388-15-209(2)(h).

(j) Promptly report to the department in writing any changes in income or resources which may effect eligibility.

(k) Agree to pay all chore or attendant care services costs beyond the state's contribution as determined using a sliding fee schedule.

| Percentage of State Median Income (After Deductions) | Percentage of Rate Paid By The Department |
|--|---|
| Above 0 through 10 | 90 |
| Above 10 through 20 | 80 |
| Above 20 through 30 | 70 |
| Above 30 through 40 | 60 |

(l) Meet all other requirements for the chore or attendant care program as defined in WAC 388-15-207 through 388-15-215.

(4) For purposes of this section, an applicant is disabled if either of the following conditions is satisfied:

(a) The applicant previously has been determined "disabled" for the purpose of receiving social security disability insurance (SSDI) or supplemental security income (SSI) or federal aid medical care only (FAMCO), and the department determines that there has been no

appreciable improvement in the applicant's disabling condition(s) since that disability determination was made.

(b) The applicant is determined by the department to have a medically determinable physical or mental impairment which, except for the applicant's ability to perform gainful activity, is comparable in severity to a disability which would qualify an applicant for medical assistance related to Title XVI under WAC 388-92-015(3)(c).

(5) The department shall pay its share of chore or attendant care service costs to the client following receipt of documentation that the services were provided. If less service is verified in any month than the maximum authorized, the department shall pay a prorated portion of its share of cost. The client shall employ the chore or attendant care provider and shall pay the provider the full amount due for services rendered. If the client receives services exceeding those authorized by the department, or agrees to a rate of pay exceeding that authorized by the department, the client shall be responsible for paying the amount exceeding the department's authorized service cost.

(6) An applicant's work related expenses shall be computed by the department as follows:

(a) Work related expenses shall be deducted in accordance with the "percentage method" or the "actual method," whichever is chosen by the client.

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

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

(d) When determined by the "actual method," allowable work expenses shall consist of:

(i) Child care;

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

(iii) The necessary cost of transportation to and from the place of employment by the most economical means, not to include rental cars; and,

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

(e) Even if verified, work related expenses shall not be counted in excess of the applicant's gross earned income.

(f) The client shall have the option to change methods whenever he or she reports income to the CSO. [Statutory Authority: RCW 74.08.090, 82-23-056 (Order 1904), § 388-15-217, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-217, filed 8/28/81; 81-03-075 (Order 1589), § 388-15-217, filed 1/21/81.]

WAC 388-15-220 Homemaker services. (1) Homemaker services are emergency services to families with children under the age of eighteen residing in their own

homes or in special group situations outside their homes which will help families overcome specific and temporary barriers to maintaining, strengthening, and safeguarding their functioning in the home. Such services may not exceed a maximum of: One hundred sixty-eight consecutive hours; or, thirty consecutive days of noncontinuous services not to exceed one hundred sixty-eight hours total.

(2) In sudden or unforeseen emergent situations, services may be provided to individuals sixty years of age and older to enable the individual to return to or remain in own home. Such services may not exceed seventy-two consecutive hours of homemaker care.

(3) Services include the casework functions of determination of need for service, the development with the clients, of a service plan, and ongoing evaluation of that plan during the period of placement. Homemaker services also include the direct provision of, as well as the formal and informal teaching of, limited personal care, home management of household budgets, maintenance and care of the home, food preparation and nutrition, the supervision and development of children and adults unable to care for themselves, and information and referral regarding community resources to improve home and family functioning. These services may be directed toward adult and child protective services situations, and include the observation, evaluation and reporting of individual functioning in the home.

(4) Goals for homemaker services shall be limited to those specified in WAC 388-15-010(1)(a) through (e). Also see WAC 388-15-010(2). [Statutory Authority: RCW 74.08.090. 81-17-024 (Order 1689), § 388-15-220, filed 8/12/81; 80-15-003 (Order 1551), § 388-15-220, filed 10/2/80; Order 1238, § 388-15-220, filed 8/31/77; Order 1088, § 388-15-220, filed 1/19/76.]

WAC 388-15-290 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-360 Refugee assistance. (1) This service may include information and referral, employment oriented casework, job development, job placement, skills training, work setting training, counseling and orientation, English as a second language, and vocational English training. Effective November 1, 1981, refugees will be allowed up to five hundred forty hours of English language instruction or the achievement of benchmarks as established by the superintendent of public instruction and approved by DSHS, whichever comes first. Refugees residing in the United States over thirty-six months will not be eligible for refugee funded classroom instruction. Since sufficient funds are not available from the federal government to provide this service to all eligible refugees requesting English language training, eligible refugees will be prioritized (for placement into training) as follows:

(a) Refugee head of household with one or more dependents in the country less than twelve months.

(b) Single refugees in the country less than twelve months.

(c) Refugee head of household in the country less than twenty-four months.

(d) Single refugees in the country less than twenty-four months.

(e) Refugee head of household in the country less than thirty-six months.

(f) Single refugees in the country less than thirty-six months.

(g) Other eligible refugees in the country less than thirty-six months.

(2) Goals for refugee assistance shall be limited to the goals specified in WAC 388-15-010(1)(a) and (b). Also see WAC 388-15-010(2) and chapter 388-55 WAC. [Statutory Authority: RCW 43.20A.550. 82-02-032 (Order 1742), § 388-15-360, filed 12/31/81; 81-17-027 (Order 1692), § 388-15-360, filed 8/12/81; 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 388-15-562 Congregate care--Eligible persons. (1) Persons are eligible to receive regular program congregate care who:

(a) Are adults eighteen years of age or over;

(b) Are recipients of supplemental security income and state supplementation or are recipients of continuing general assistance;

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

(d) Do not require nursing care in excess of that described in RCW 18.20.160 and the provisions of WAC 248-16-228;

(e) Do not require developmental disabilities specialized services as described in chapter 275-36 WAC unless there is a plan of care developed to provide for these specialized services apart from regular CCF services provided by the congregate care facility;

(f) Are not eligible for mental health CCF program as described in subsection (2)(e) of this section unless there is a plan of care developed to provide for mental health specialized services apart from the regular congregate care services provided by the CCF facility; and,

(g) Do not require alcoholism and/or drug treatment as described in subsection (3) of this section.

(2) Persons are eligible to receive mental health congregate care who:

(a) Are adults eighteen years of age or over;

(b) Are recipients of supplemental security income and state supplementation or are recipients of continuing general assistance;

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

(d) Do not require nursing care in excess of that allowed by boarding home licensure;

(e) Meet the following mental health client criteria:

(i) Have been discharged from a state psychiatric hospital or a local psychiatric inpatient facility within the past twelve months; or

(ii) Be expected, as a result of a mental disorder, to continue to exhibit one or more of the following characteristics for an extended period:

(A) Inability to perform basic living skills without supervision,

(B) Inability to maintain or develop a personal support system,

(C) Have a combination of physical, cognitive, or emotional disabilities leading to serious behavioral problems; or

(iii) In the opinion of a mental health specialist (as defined by WAC 275-25-710) psychiatric hospitalization is imminent unless placement in an extended care facility is secured;

(f) Are actively involved in mental health treatment as defined in the client's individual treatment plan or on a waiting list to receive such treatment. A client shall be ineligible for the mental health rate after a sixty-day period of refusal of mental health treatment.

(3) Persons are eligible to receive alcoholism and/or drug treatment congregate care who:

(a) Are adults eighteen years of age or over;

(b) Are recipients of supplemental security income and state supplementation or are recipients of continuing general assistance;

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

(d) Do not require nursing care in excess of the nursing care allowed by boarding home or private establishment licensure;

(e) For drug treatment congregate care, are using a controlled substance once a week or more and are at least mildly dysfunctional due to drug use as defined by the office of drug abuse. Clients recently released from jail or prison or a treatment program are eligible when judged by the drug treatment professional to be in imminent danger of recidivism without treatment;

(f) For alcoholism congregate care, manifest any physical and/or behavioral problem due to the use or abuse of alcohol as determined by staff of a state-approved alcohol treatment facility.

(4) Placement is limited to facilities having available DSHS contracted beds. [Statutory Authority: RCW 74.08.044, 82-10-064 (Order 1805), § 388-15-562, filed 5/5/82; 81-01-077 (Order 1579), § 388-15-562, filed 12/17/80; Order 1238, § 388-15-562, filed 8/31/77.]

WAC 388-15-568 Congregate care--Payment--Standards--Procedures. (1) All nonexempt income of a person placed in a congregate care facility shall first be applied to the person's clothing, personal maintenance, and necessary incidentals. Any remaining nonexempt income shall be applied to the cost of the congregate care.

(2) Payment is limited to the level of care approved by the department for the type of care authorized, i.e.,

regular, mental health or alcoholism and/or drug treatment. There is no specialized congregate care program rate for developmentally disabled persons.

(3) The department shall pay to the congregate care facility, for those services provided, a sum not to exceed the rates set forth in the most recent schedule of rates established and published by the department. [Statutory Authority: RCW 74.08.044, 82-10-064 (Order 1805), § 388-15-568, filed 5/5/82; Order 1238, § 388-15-568, filed 8/31/77.]

WAC 388-15-570 Family reconciliation services.

(1) Families who are in conflict may request family reconciliation services from the department. Such services shall be provided to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the child or family and to maintain families intact wherever possible.

(2) Family reconciliation services shall be designed to develop skills and supports within families to resolve family conflicts and may include but are not limited to referral to services for suicide prevention, psychiatric or other medical care, or psychological, welfare, legal, educational, or other social services, as appropriate to the needs of the child and the family.

(3) It is the purpose of this service to achieve a reconciliation between the parent and child, to reunify the family and to maintain and strengthen the family unit and thereby avoid the necessity of out-of-home placement of children.

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

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

(b) Families in conflict: The department provides family reconciliation 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.

(5) Services are provided as follows:

(a) Intake/assessment services: IAS are short-term counseling sessions limited to a total of four hours within twenty-four hours directed toward defusing the immediate potential for violence, assessing problems and exploring options leading to problem resolution.

(b) Crisis counseling services: CCS are time-limited counseling sessions limited to fifteen hours within thirty days and are directed toward developing skills and supports within the family to resolve conflicts or to refer to appropriate resources including medical, legal, ongoing counseling, and child protective services for problem resolution.

(c) These services are not provided for chronic or long-term multiproblem situations, custody and marital disputes, cases receiving counseling services from other agencies, child abuse and neglect cases, foster family or

group care services in need of follow-up services and post adoption cases still under supervision of an agency.

(6) Goals for family reconciliation services shall be limited to those specified in WAC 388-15-010(1)(c). Also see WAC 388-15-010(2). [Statutory Authority: RCW 74.08.090. 82-01-040 (Order 1732), § 388-15-570, filed 12/16/81; 81-20-063 (Order 1708), § 388-15-570, filed 10/5/81. Statutory Authority: RCW 74.08.090 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 388-24 WAC AID TO FAMILIES WITH DEPENDENT CHILDREN--ELIGIBILITY

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-24-075 | Aid to families with dependent children—regular—Multiple deprivation factors. [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.] Repealed by 81-10-012 (Order 1644), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
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388-24-135

Aid to families with dependent children—Employable parent—Summary of eligibility conditions. [Statutory Authority: RCW 74.08.090. 80-14-014 (Order 1546), § 388-24-135, filed 9/23/80. 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.] Repealed by 81-10-012 (Order 1644), filed 4/27/81. Statutory Authority: RCW 74.08.090.

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) Effective October 1, 1981, AFDC may be granted on behalf of an unborn child provided there is medical confirmation that the mother is in the third trimester of pregnancy. The third trimester is defined as the three calendar months preceding the expected month of birth. Acceptable source of medical confirmation is a written statement from a licensed medical practitioner confirming pregnancy and the expected date of birth.

(b) AFDC shall be continued through the month 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 388-24-070;

(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 or her 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) Effective January 1, 1982, who is a child eighteen years of age and under nineteen years of age who is a

full-time student reasonably expected to complete a program of secondary school, or the equivalent level of vocational or technical training, before the end of the month in which nineteen years of age is reached.

(10) 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.

(11) For persons to be included in the AFDC assistance unit, see WAC 388-24-050. [Statutory Authority: RCW 43.20A.550. 82-17-007 (Order 1856), § 388-24-040, filed 8/6/82. Statutory Authority: RCW 74.08.090. 82-09-034 (Order 1792), § 388-24-040, filed 4/14/82; 82-01-009 (Order 1728), § 388-24-040, filed 12/4/81; 81-10-012 (Order 1644), § 388-24-040, filed 4/27/81. 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 388-24-042 Aid to families with dependent children--Eligibility of strikers. (1) Eligibility for AFDC or refugee assistance does not exist when any caretaker relative with whom the child lives is, on the last day of the month, participating in a strike.

(2) Eligibility for AFDC or refugee assistance does not exist when the only child or all children in an AFDC assistance unit is/are, on the last day of the month, participating in a strike.

(3) Eligibility for the eligible caretaker and siblings will be determined without regard to the needs of a child in the home who, on the last of the month, is participating in a strike.

(4) The term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. [Statutory Authority: RCW 74.08.090. 82-09-034 (Order 1792), § 388-24-042, filed 4/14/82; 82-01-009 (Order 1728), § 388-24-042, filed 12/4/81.]

WAC 388-24-044 Mandatory monthly reporting.

(1) As a condition of continuing eligibility for AFDC

and RA, the recipient must return to the department a completed monthly status report (MSR) by the fifth day of the month following the month for which the MSR describes the household circumstances.

(2) Failure to return a completed MSR by the fifth day of the month shall result in termination except as provided in subsection (3) of this section.

(3) If the recipient furnishes the completed report to the department within ten days from the date of a termination notice pursuant to subsections (1) and (2) of this section, the department shall:

(a) Accept the replacement form; and

(b) Reinstatement assistance if the information on the replacement form indicates the recipient is still eligible.

(4) If the information on the replacement form indicates the recipient is ineligible or eligible for an amount less than the prior month's payment, the department must notify the recipient according to chapter 388-33 WAC.

These rules shall become effective on August 15, 1982. [Statutory Authority: RCW 74.08.090. 82-17-067 (Order 1863), § 388-24-044, filed 8/18/82; 82-10-060 (Order 1799), § 388-24-044, filed 5/5/82.]

WAC 388-24-050 Aid to families with dependent children--Assistance unit. AFDC 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(ren) 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;

(d) Only the eligible parent(s) when the only child is unborn.

(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(ren) 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 74.08.090. 81-10-012 (Order 1644), § 388-24-050, filed 4/27/81. 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 388-24-065 Aid to families with dependent children--Deprivation due to incapacity. (1) A child is considered to be deprived of parental support and care by reason of parental incapacity when he/she lives with two natural or adoptive parents or one natural or adoptive parent and one stepparent and one or both parents are substantially incapacitated.

(2) "Incapacity" refers to the existence of a physiological, emotional and/or mental impairment, defect, illness, or loss.

(a) "Substantially incapacitated" shall mean that the person can be expected to work at gainful employment for no more than one-half the time customarily required of fully employable persons; or that the person cannot perform necessary homemaking activities and/or provide adequate care for the children without help from other individuals.

(b) An exception to the rule in subdivision (2)(a) of this section may be made when a person with limited skill and abilities is working more than half time in a special workshop or special work arrangement for handicapped individuals and the work is not fully competitive. Incapacity may continue to exist if the person is incapable of work in competitive work arrangements with full wages.

(c) Incapacity can be of a permanent or temporary nature, but must be expected to last for a period of at least thirty days from the date of application.

(3) A claim of incapacity shall be substantiated by competent medical testimony.

(a) A physiological incapacity will be documented by a report from a physician or chiropractor.

(b) A mental or emotional incapacity will be documented by a report from a psychiatrist, a clinical psychologist, or a mental health clinic when the report is signed by the clinic director.

(c) All medical testimony shall be in writing and must include a diagnosis and prognosis for the incapacity and a description of the effect of the condition on the individual's ability to function.

(4) Mental or emotional incapacity shall be determined on the basis of distinct impairments which substantially reduce a parent's ability to engage in activities necessary to carry on full-time specified responsibilities, such as employment, home management and/or adequate care of children. Evidence of any one or a combination of the following conditions may be sufficient to establish incapacity:

(a) Inability to exercise judgment, make decisions, sustain an adequate attention span, follow directions or learn to the degree necessary to sustain full-time employment, homemaking activities or care of the children.

(b) Bizarre or inappropriate behavior beyond his/her capability to control.

(c) Significant loss of physical and motor control.

(d) Inadequate perception and memory.

(e) Use of medication which impairs functioning.

(5) Incapacity due to alcoholism or drug addiction shall be determined by medical evidence that:

(a) Pathological or organic damage has resulted from chronic alcohol and/or drug abuse, or

(b) The use of alcohol or drugs has substantially reduced the parent's ability to engage in full-time employment or homemaking activities.

(6) Individuals who are determined to be incapacitated due to alcoholism or drug abuse shall be required to accept referral to a community alcoholism or drug treatment program for evaluation and recommendation for treatment. (See subsection 12 of this section.)

(7) The medical testimony shall be supported by an objective appraisal of all factors relevant to the individual's situation.

(a) Consideration shall be given to the individual's age, emotional health, aptitudes, adjustment to and acceptance of the incapacity, family circumstances, employment history, education, and the extent to which the individual is able to carry out specified responsibilities such as employment or homemaking. Social or educational deficiencies do not of themselves establish incapacity but may have a bearing on an individual's ability to overcome an incapacity.

(b) If an individual has an obvious incapacity for which medical evidence verifies inability to engage in gainful employment such an appraisal is not required.

(8) Deprivation due to incapacity shall be determined by the CSO incapacity review team in accordance with the criteria in subsections (1) through (7) of this section. The review team shall:

(a) Consider medical and other related evidence of the incapacitating condition and make a decision confirming or denying the existence of incapacity within thirty days of the date of application, except in circumstances beyond the control of the agency such as delay on the part

of the applicant, the examining physician or other source of documentation.

(b) Request additional information when necessary.

(c) Consult with the medical consultant as necessary for evaluation of medical data.

(d) Determine probable duration of incapacity. The probable duration shall be related to the prognosis for the condition as predicted by the medical evidence but shall not exceed twelve months without a redetermination of incapacity.

(9) Eligibility cannot be established if an applicant or recipient fails to cooperate in obtaining information documenting incapacity.

(10) Cost of necessary medical reports to determine incapacity shall be paid by the department. Payment for such reports shall not be made to DSHS agencies.

(11) Eligibility of either parent or stepparent in the home for veterans benefits based on disability of fifty percent or more or for any social security administration benefit based on disability shall establish incapacity for aid to families with dependent children benefits, without further documentation or referral to the incapacity review team.

(12) Acceptance of available medical treatment:

(a) Deprivation cannot be established when an AFDC parent or stepparent whose incapacity deprives his/her child(ren) or stepchild(ren) of parental support or care, refuses without good cause to accept available medical treatment which would reasonably be expected to render him/her employable.

(i) "Available medical treatment" shall mean and include medical, surgical, psychiatric therapy, treatment in an alcoholism or drug treatment center, or any combination thereof.

(ii) "Reasonably be expected to render him/her employable" shall mean that, in the opinion of the medical consultant the recommended medical, surgical or psychiatric therapy, or any combination thereof, is of such a nature and prognosis that, in the specific instance of the individual involved, medical experience indicates that the recommended treatment will restore or substantially improve the individual's ability to work for pay in a regular and predictable manner, or to resume care of the home or children.

(iii) "Refuses without good cause" shall mean that the CSO shall determine whether the individual is justified in refusing recommended medical treatment.

(b) An individual is justified in refusing recommended medical treatment when, according to the best objective judgment of the CSO review team confirmed by the CSO administrator and the medical consultant, such refusal is based upon one or more of the following conditions:

(i) The individual is genuinely fearful of undergoing recommended treatment even though such fear may appear to be unrealistic or irrational;

(ii) The individual could lose a faculty, or the remaining use of a faculty he now has, and refuses to accept the risk;

(iii) The individual will not accept recommended medical treatment because of religious scruples. [Statutory Authority: RCW 74.08.090, 81-10-012 (Order 1644), § 388-24-065, filed 4/27/81; Order 1192, § 388-24-065, filed 2/18/77; Order 1109, § 388-24-065, filed 4/15/76; Order 987, § 388-24-065, filed 12/16/74; Order 940, § 388-24-065, filed 6/10/74; Order 923, § 388-24-065, filed 4/15/74; Order 829, § 388-24-065, filed 7/26/73; Order 609, § 388-24-065, filed 9/22/71; Order 597, § 388-24-065, filed 9/1/71; Order 530, § 388-24-065, filed 3/31/71, effective 5/1/71; Order 291, § 388-24-065, filed 6/12/68; Emergency Order 287, filed 5/1/68; Order 267, § 388-24-065, filed 12/5/67; Regulation 6.2212, filed 1/4/67; Regulation 6.2212, filed 8/29/66, 3/31/66 and 12/31/65.]

WAC 388-24-070 Aid to families with dependent children--regular--Deprivation due to continued absence from home. (1) Determination whether a child has been deprived of parental support or care is made in relation to a child's natural parent, adoptive parent, or stepparent and the term parent as used in this section refers to any of those relationships.

(2) Continued absence of a parent from the home establishes deprivation of parental support or care when:

(a) The parent is living out of the home in which the child resides, and

(b) The nature of the absence interrupts or terminates the parent's functioning as a provider of maintenance, physical care or guidance for the child, and

(c) The known or indefinite duration of the absence precludes counting on the parent's performance of his or her 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 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 or she 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.

(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 CSO 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 or her 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) of this section.

(d) Absence due to other reasons:

(i) 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.

(ii) Parent has been deported.

(iii) Parent has been convicted of an offense and has been required by the court to perform unpaid work or community service during the workday while being permitted to reside in the family home.

(A) The basis of deprivation will be continued absence, and the needs of the convicted parent will not be included in the determination of eligibility or the payment of the family grant.

(B) A convicted parent earning income outside of the hours of sentenced unpaid work or community service shall have such earnings treated in accordance with WAC 388-28-500.

(4) The rules in this section shall apply to applications which are pending and/or made on or after October 1, 1982, and to recipients when case actions occur or when a periodic desk review is completed on or after October 1, 1982. [Statutory Authority: RCW 74.08.090. 82-23-059 (Order 1907), § 388-24-070, filed 11/17/82; 82-11-093 (Order 1813), § 388-24-070, filed 5/19/82; 81-06-058 (Order 1619), § 388-24-070, filed 3/4/81; 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-24-090 Eligibility conditions applicable to AFDC--Employment or training. (1) All AFDC applicants and recipients are subject to WIN or employment and training (E&T) registration as provided in WAC 388-24-107.

(2) 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.

(3)(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.

(4) A child's eligibility is not affected by the WIN/E&T registration requirement for the parent or needy caretaker relative.

(5) 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 74.08.090. 81-10-012 (Order 1644), § 388-24-090, filed 4/27/81. 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--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 or the intensive applicant employment services project and participate for the maximum of thirty days unless such individual is:

(a) Under age sixteen or age sixteen but not yet nineteen and is enrolled as, or has been accepted for enrollment as, a full-time student for the next school term, in a secondary school, or the equivalent level of vocational or technical training, and reasonably expected to complete such course during the month he or she reaches nineteen;

(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 provides WIN/E&T exemption only for the period of a documented condition of unemployability. Exemption terminates when the condition ceases.

(ii) Persons 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 or 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 personally providing care for the child, with only brief and infrequent absences from the child; or

(f) A person employed at least thirty hours per week.

(2) For those applicants only in areas subject to the intensive applicant employment services work demonstration project where applicants are required to participate unless exempted, exemption is allowed only to a parent or other needy caretaker relative caring for a child under the age of three. This requirement shall cease when participation is completed to the extent required but not to exceed thirty days from the date of application, except for those applicants/recipients residing in an area subject to the job search requirement of eight weeks.

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

(4) The requirements of any individual failing 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 shall be advised of his or her option to register if he or she so desires, and of the fact child care will be provided if needed. Other exempted individuals may volunteer to register, subject to acceptance of such registration by DES.

(6) When an AFDC recipient classified as exempt from WIN/E&T registration reports any change affecting the exempt status, he or she shall be registered within thirty days after the report. If a change is not reported, exempt or nonexempt status will be determined at the next review unless the department becomes aware an AFDC recipient's exempt status has changed. Then the recipient shall be notified he or she shall be registered within thirty days.

(7) The department's financial service unit shall determine which AFDC applicants or recipients are exempt from registration and which are required to register as a condition of eligibility. [Statutory Authority: RCW 74.22.110 and 74.23.120. 83-01-057 (Order

1924), § 388-24-107, filed 12/15/82. Statutory Authority: RCW 74.08.090. 82-07-026 (Order 1779), § 388-24-107, filed 3/11/82; 82-01-009 (Order 1728), § 388-24-107, filed 12/4/81; 81-10-012 (Order 1644), § 388-24-107, filed 4/27/81; 80-05-045 (Order 1499), § 388-24-107, filed 4/16/80. 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 388-24-108 Eligibility conditions applicable to AFDC--Assignment of rights to support. (1) As a condition of eligibility each applicant for or recipient of AFDC shall assign to the office of support enforcement any and all right, title, and interest in any support obligation the applicant or recipient may have in his or her own behalf or on the behalf of any family member for whom application is being made; such assignment shall include rights in support payments which have accrued prior to the time assignment is made, and shall require the applicant/recipient to promptly remit to the office of support enforcement any payments received directly from the person legally responsible to pay support. Payment of public assistance to the applicant shall constitute an agreement to the assignment of rights to support by the applicant, as provided under RCW 74.20.330.

(2) If the parent or other caretaker relative with whom the child(ren) is living fails or refuses to comply with the requirement in subsection (1) of this section, the caretaker relative shall be ineligible to receive assistance and any assistance for which the child(ren) may be eligible shall be provided by protective payment as specified in WAC 388-33-453; the determination of requirements for the child(ren) shall be computed without regard to the requirements of the caretaker relative.

(3) The requirement of subsection (1) of this section shall be applicable to recipients no later than the next regular redetermination of eligibility. [Statutory Authority: RCW 74.08.090. 82-13-080 (Order 1829), § 388-24-108, filed 6/21/82; 81-10-012 (Order 1644), § 388-24-108, filed 4/27/81; Order 1054, § 388-24-108, filed 9/25/75.]

WAC 388-24-109 Eligibility conditions applicable to AFDC--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. 81-10-012 (Order 1644), § 388-24-109, filed

4/27/81; 78-09-053 (Order 1330), § 388-24-109, filed 8/22/78; Order 1054, § 388-24-109, filed 9/25/75.]

WAC 388-24-125 Eligibility conditions applicable to AFDC--Living in home of relative of specified degree.

(1) Relationship of child to relative:

(a) A dependent child to be eligible for AFDC 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" as defined in this section.

(iv) Spouse of any persons named in this section are within the scope of this provision, although the marriage is terminated by death or divorce.

(b) A child eligible for AFDC-FC must live in a licensed family foster home, nonprofit group home, or nonprofit child care institution.

(c) 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 388-29-145. 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.

(C) Enrollment on or after September 1, 1981, in an Indian boarding school administered through the Bureau of Indian Affairs.

(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 himself/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. 82-08-038 (Order 1783), § 388-24-125, filed 4/1/82; 81-10-012 (Order 1644), §

388-24-125, filed 4/27/81; 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 Repealed. See Disposition Table at beginning of this chapter.

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 or incapacity after deprivation due to absence ceases, assistance will be discontinued at the end of the calendar month in which deprivation due to absence ceases. [Statutory Authority: RCW 74.08.090. 82-01-009 (Order 1728), § 388-24-137, filed 12/4/81; 81-10-012 (Order 1644), § 388-24-137, filed 4/27/81; 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 388-24-250 Consolidated emergency assistance program--Conditions of eligibility. Effective July 1, 1981, the consolidated emergency assistance program (CEAP) shall be granted to families with dependent children who meet all of the following eligibility conditions:

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

(2) Have not been certified as eligible for, are not receiving, or are not having their needs met by AFDC, SSI, GAU or refugee assistance.

(3) Are experiencing one or more of the following emergent needs:

- (a) Food.
- (b) Shelter.
- (c) Clothing.
- (d) Minor medical.
- (e) Utilities.
- (f) Household maintenance.

(g) Necessary clothing or transportation costs to accept or maintain a job.

(h) Transportation for a minor, not in foster care, to a home where care will be provided by family members or approved caretakers.

(4) Are taking all steps necessary to make themselves eligible for AFDC, SSI, GAU or refugee assistance, medical assistance for CEAP applicants requesting emergent medical care, and food stamps for those CEAP applicants requesting emergent food assistance.

(5) Are not under sanction for failure to comply with the eligibility requirements of AFDC, SSI, GAU, refugee assistance, medical assistance for CEAP applicants

requesting emergent medical care, or food stamps for CEAP applicants requesting emergent food assistance. AFDC and GAU applicants who are waiting for an incapacity decision to be made may be granted CEAP prior to the date of the eligibility determination for AFDC or GAU.

(6) Are residents of Washington state. A resident is a person who is living in the state voluntarily with the intention of making and maintaining his or her home in the state and not for a temporary purpose; that is, a person who has indicated no intention of presently leaving the state to take up residence.

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

(8) Are registered for employment with Washington department of employment security (DES). 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) A needy caretaker relative or parent of a child under the age of six who is caring for the child; or

(d) Under sixteen; or

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

(f) Sixty years of age or older.

(9)(a) Have not refused a bona fide job offer without good cause within thirty days prior to application or after application.

(b) Have not voluntarily terminated employment without good cause within thirty days prior to application or after application.

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

(i) The period of ineligibility shall begin on the date of refusal or termination of employment;

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

(10) Have applied for unemployment compensation if potentially eligible.

(11) Have completed an interview with employment and training staff when referred. [Statutory Authority: RCW 74.08.090. 81-20-009 (Order 1704), § 388-24-250, filed 9/25/81; 81-10-011 (Order 1643), § 388-24-250, filed 4/27/81; 80-16-039 (Order 1565), § 388-24-250, filed 11/3/80; Order 1176, § 388-24-250, filed 12/23/76; Order 1004, § 388-24-250, filed 1/24/75; Order 993, § 388-24-250, filed 12/31/74; Order 969, § 388-24-250, filed 9/13/74.]

WAC 388-24-255 Consolidated emergency assistance program (CEAP). Determination of financial need:

(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 with an equity value not to exceed one thousand five hundred dollars;

(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.

(2) Nonexempt resources and income. All income, cash, marketable securities, and personal and real property not specifically exempted in this section shall be considered nonexempt in determination of financial need.

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

(a) Income received regularly, cash on hand, and the value of other nonexempt resources at the time of grant authorization shall be deducted from the amount required to meet the emergent need subject to payment maximums if the amount of income or cash is less than the applicant's emergent needs for the certification period. If the amount of cash on hand is the same as or is greater than the applicant's needs for the certification period, the applicant shall be ineligible.

(b) Income received after application and before grant authorization shall be deducted from the emergent need payment limit, or from the amount required to meet the emergent need if that amount is less than the payment maximum.

(c) 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.

(4) These rules shall be effective July 1, 1981. [Statutory Authority: RCW 74.08.090. 81-20-009 (Order 1704), § 388-24-255, filed 9/25/81; 81-10-011 (Order 1643), § 388-24-255, filed 4/27/81; 80-16-039 (Order 1565), § 388-24-255, filed 11/3/80; Order 1176, § 388-24-255, filed 12/23/76; Order 969, § 388-24-255, filed 9/13/74.]

WAC 388-24-260 Consolidated emergency assistance program—Certification period. CEAP may be authorized for no more than one calendar month in any period of twelve consecutive calendar months.

(1) Each certification period can not exceed one calendar month.

(2) A specified emergent need(s) must exist for the period of eligibility.

(3) CEAP may not be paid to persons who received emergency assistance under previous emergency assistance programs within the last twelve months. [Statutory Authority: RCW 74.08.090. 82-24-006 (Order 1910), § 388-24-260, filed 11/18/82; 81-20-009 (Order 1704), § 388-24-260, filed 9/25/81; 81-10-011 (Order 1643),

§ 388-24-260, filed 4/27/81; 80-16-039 (Order 1565), § 388-24-260, filed 11/3/80; 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 388-24-265 Consolidated emergency assistance program (CEAP)—Eligible persons. (1) CEAP shall be provided when the child:

(a) Is under eighteen years of age, and

(b) Is living with a parent or other relative as specified in WAC 388-24-125(1)(a)(i), or

(c) Has lived with such relative within the six months prior to the month in which assistance is requested;

(d) Is in emergent need and the need is not due to his or such relative's refusal without good cause to accept employment.

(2) The following are eligible for emergency assistance:

(a) The child(ren) under the age of eighteen.

(b) The needy caretaker relative or relatives with whom the child(ren) lives.

(c) Migrant workers with dependent children.

(d) The parent(s) of an unborn child when pregnancy is confirmed.

(e) A child under the age of eighteen not currently living in the home of a relative, if he or she qualifies under WAC 388-24-255(3).

(f) Children and families not eligible for assistance because of their alien status.

(3) Emergency assistance:

(a) May be paid to the recipient by warrant or by vendor payment.

(b) Shall be utilized for applicants from another state only when such individuals are:

(i) Detained in Washington for reasons beyond their control and as a result of events which could not have been reasonably anticipated; or

(ii) They have decided to become residents. [Statutory Authority: RCW 74.08.090. 81-20-009 (Order 1704), § 388-24-265, filed 9/25/81; 80-16-039 (Order 1565), § 388-24-265, filed 11/3/80; Order 969, § 388-24-265, filed 9/13/74.]

WAC 388-24-270 Consolidated emergency assistance program (CEAP)—Grant standards. (1) CEAP requirements shall be paid in the amount necessary to meet allowable emergent needs under the CEAP program, with the issuance of not more than one hundred percent of the payment standard for any month. Following are payment maximums:

| Number in Household | Maximum |
|------------------------|---------|
| 1 | 288 |
| 2 | 365 |
| 3 | 451 |
| 4 | 531 |
| 5 | 612 |
| 6 | 693 |
| 7 | 802 |

| Number in Household | Maximum |
|---------------------|---------|
| 8 | 887 |
| 9 | 887 |
| 10 (or more) | 887 |

(2) The following are individual monthly payment maximums for the allowable emergent need items payable under the CEAP program. These limits may not be exceeded for individual need items. If more than one emergent need exists, the total payment for all needs may not exceed the standards in subsection (1) of this section.

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 (or more) |
|------------------|-----|-----|-----|-----|-----|-----|-----|-------------|
| Food | 150 | 190 | 236 | 277 | 320 | 362 | 419 | 463 |
| Shelter | 159 | 202 | 249 | 293 | 338 | 383 | 443 | 491 |
| Clothing | 21 | 26 | 33 | 38 | 44 | 50 | 58 | 64 |
| Minor Medical | 54 | 67 | 80 | 100 | 120 | 139 | 157 | 174 |
| Utilities | 32 | 40 | 50 | 59 | 68 | 77 | 88 | 98 |
| Household Maint. | 27 | 34 | 42 | 49 | 56 | 64 | 74 | 82 |

Clothing and transportation - as needed not to exceed the grant maximum. [Statutory Authority: RCW 74.08-.090, 82-24-006 (Order 1910), § 388-24-270, filed 11/18/82; 82-11-001 (Order 1804), § 388-24-270, filed 5/6/82; 81-20-009 (Order 1704), § 388-24-270, filed 9/25/81; 81-10-011 (Order 1643), § 388-24-270, filed 4/27/81; 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 388-24-276 Application. A person must apply and have eligibility determined prior to the issuance of CEAP. [Statutory Authority: RCW 74.08.090, 81-20-009 (Order 1704), § 388-24-276, filed 9/25/81.]

Chapter 388-26 WAC

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

WAC

- 388-26-055 Residence--Establishing.
- 388-26-120 Citizenship and alienage.

WAC 388-26-055 Residence--Establishing. (1) A resident is a person who:

(a) Is living in the state of Washington voluntarily with the intention of making his/her home in the state and not for a temporary purpose; that is, one who has indicated intent to maintain his/her residence in the state and has no intention of presently leaving the state to take up residence; or

(b) Is living in the state, is not receiving assistance from another state, and entered the state with a job commitment or seeking employment in the state whether or not currently employed.

(2) The CSO is not required to find that an applicant is a resident of Washington if he/she is determined to be a bona fide resident of another state; in other words, that he/she is temporarily absent from another state and has not chosen to acquire residence in this state. [Statutory Authority: RCW 74.08.090, 81-09-043 (Order 1636), § 388-26-055, filed 4/15/81; 80-03-052 (Order 1490), § 388-26-055, filed 2/22/80; Order 531, § 388-26-055, filed 3/31/71, effective 5/1/71; Order 513, § 388-26-055, filed 1/15/71; Order 366, § 388-26-055, filed 7/9/69; Regulation 7.21, filed 6/30/67; Regulation 7.21, filed 1/24/64.]

WAC 388-26-120 Citizenship and alienage. To be eligible for AFDC or continuing general assistance a resident shall be either:

(1) A citizen; or

(2) An alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act); or

(3) A Canadian Indian (a North American Indian born in Canada) is to be considered the same as a U.S. citizen if:

(a) He or she has at least fifty percent Indian blood or

(b) Has less than fifty percent Indian blood and entered the U.S. prior to December 24, 1952, and has maintained residence since entry. [Statutory Authority: RCW 74.08.090, 82-23-060 (Order 1908), § 388-26-120, filed 11/17/82; Order 942, § 388-26-120, filed 6/26/74.]

Chapter 388-28 WAC

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

WAC

- 388-28-392 Community, separate and jointly owned property--Labor and industries compensation--Lien.
- 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.
- 388-28-455 Nonexempt resources--Real property--Nonexempt.
- 388-28-474 Replacement of exempt property.
- 388-28-480 Use of income and income potentials--Types of income--Effect on need.
- 388-28-481 Nonexempt resources and income known at time of application.
- 388-28-482 Effect of newly acquired income and property on continuing need.
- 388-28-484 Treatment of newly acquired nonexempt income and resources.
- 388-28-515 Net cash income--Determination--Employment or training expenses--Deductions from gross income.
- 388-28-520 Self-employment.
- 388-28-535 Net cash income--Determination--Deductions from gross income--Income of child.
- 388-28-570 Net cash income--Exempt earned income.
- 388-28-575 Disregard of income and resources.
- 388-28-578 Assistance from other agencies and organizations.

388-28-590 Alien sponsorship—Deeming of income and resources—Overpayments.

WAC 388-28-392 Community, separate and jointly owned property—Labor and industries compensation—Lien. (1) The department of social and health services (DSHS) is authorized to file a lien upon labor and industries time-loss compensation payable to a recipient of public assistance.

Provisions of this section do not apply to persons when the person's eligibility for labor and industries benefits is based upon an injury or illness occurring prior to July 1, 1972.

(2) By accepting public assistance a recipient is deemed to have subrogated to DSHS his or her right to recover net time-loss compensation. DSHS shall compute the department's claim for subrogation up to eighty percent of the lesser amount of either the public assistance or time-loss compensation paid, for the periods when both public assistance and time-loss are paid to the injured worker.

(a) When the public assistance unit is composed of several adults not married to each other, and the adults' dependents in an assistance unit, the claims for subrogation will be made as if the injured worker and his or her dependents were on a separate assistance grant.

(i) If the unmarried adults on a public assistance grant have a common child, that child will be counted as one of the injured worker's dependents.

(ii) If an injured worker or one of his or her dependents receives other income which is budgeted against the public assistance grant, the claim for subrogation will be made as if that other income were budgeted against continuing assistance for the injured worker and his or her dependents in the household.

(b) When the period of duplicated benefits from public assistance and time-loss compensation terminates, or if continuing assistance is paid to supplement time-loss compensation to bring the injured worker's income up to the grant payment standard, DSHS shall make no further claim under this lien against the time-loss compensation.

(c) In computing the amounts of claims for subrogation, DSHS shall compute the payments for time loss and public assistance paid for less than a full month on the actual number of days paid.

(3) A copy of the statement of lien and notice to the department of labor and industries to withhold and deliver time-loss compensation to DSHS shall be mailed to a recipient no later than three days after such statement has been sent to the department of labor and industries.

(4) DSHS shall advise an applicant or recipient of the provisions of this section when it is known that such individual may be eligible for time-loss compensation from labor and industries.

(5) Any person feeling himself or herself aggrieved by the action of DSHS in impounding his or her time-loss compensation shall have the right to a fair hearing as provided in chapter 388-08 WAC. [Statutory Authority: RCW 74.08.090. 82-12-066 (Order 1818), § 388-28-

392, filed 6/2/82; Order 842, § 388-28-392, filed 8/9/73.]

WAC 388-28-430 Effect of resources and income on financial need—Personal property exemptions—Ceiling values. (1) The following personal property is an exempt resource for general assistance. There is no ceiling value on such property.

(a) Used and useful household furnishings and personal clothing. Household furnishings and personal clothing 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) Term and/or burial insurance for the use of the applicant or recipient.

(d) One cemetery plot for each member of an assistance household is exempt personal property. Any additional plots are nonexempt.

(2) The following items are exempt resources to the extent that the values of such items are within the following maxima or ceiling values for general assistance.

(a) The total value of cash, marketable securities, cash discount value of real estate or chattel mortgages and sales contracts, and any excess of values exempted under (2)(b) and (c) of this section and any other resources not specifically exempted shall not exceed \$1,500.00 for a single person, or \$2,250.00 for a family of two or more.

(b) Life insurance may have a cash surrender value not to exceed \$1,500.00 considered as an exempt resource.

(c) Used and useful vehicles with an equity value of \$1,500.00 or less is an exempt resource.

(3) For AFDC and RA, household furnishings and personal clothing essential for daily living are exempt resources without ceiling value. Such items which are in storage shall be presumed to be not essential for daily living but all other household furnishings and personal clothing shall be presumed to be essential for daily living and both presumptions stand in the absence of evidence to the contrary.

(4) For AFDC and RA the total value of cash, marketable securities, cash discount value of real estate or chattel mortgages, sales contracts, and burial plots, cash surrender value of life insurance and burial insurance and, excess value of vehicles, value of nonexempt property and any other resources not specifically exempted shall not exceed one thousand dollars regardless of family size.

(5)(a) For AFDC and RA one used and useful vehicle, with an equity value of \$1,500.00 or less is an exempt resource,

(b) Excess equity value of a used and useful vehicle and the equity value of other vehicles shall apply toward the limit in subsection (4) of this section.

(6) The following rules apply to all grant programs:

(a) 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 must either produce income which reduces the applicant's or recipient's need for public assistance, or aid in rehabilitating him or her or his or her 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.

(b) Funds represented by values within the ceiling values are not used to determine financial need or to compute grants.

(c) 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.

(d) 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.

(e) A joint account shall be considered the property of the applicant or recipient since the entire amount is at his or her disposal, except when the applicant or 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 and/or 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 or recipient.

(f) 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 subsections (2) and (5) of this section.

(g) The cash discount value of a mortgage or contract represents the value of the resource.

(h) Any payments on mortgages or contracts received by an applicant or recipient shall be considered income as specified in WAC 388-28-580.

(i) 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.

(j) 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.

(k) A motor home is a totally nonexempt resource and its value is not applied to the ceiling values in this section. If it is the only residence of the household, it is considered to be the home and is a totally exempt resource.

(l) A motor home is a motor vehicle originally designed, reconstructed or permanently altered to provide facilities for human habitation.

(m) 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.

(n) 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.

(o) For vehicles not listed in these guides the method of determining the resource value shall be documented in the case record.

(p) The values listed in these guides can be overcome by positive evidence to the contrary. Such evidence shall be documented in the case record.

(q) The changes to resource limits for federally funded programs will be phased in by applying them when case actions are taken and/or when eligibility is determined or redetermined.

(3) The rules in this section shall be effective April 1, 1982. [Statutory Authority: RCW 74.08.090. 82-14-049 (Order 1840), § 388-28-430, filed 6/30/82; 82-09-034 (Order 1792), § 388-28-430, filed 4/14/82; 82-01-009 (Order 1728), § 388-28-430, filed 12/4/81; 81-12-036 (Order 1659), § 388-28-430, filed 6/2/81; 80-14-061 (Order 1547), § 388-28-430, filed 10/1/80; 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, with funds from other exempt sources or other income which has been considered in computing financial need. 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 which has been considered in computing financial

need and from the public assistance grant is on hand within thirty days after its receipt.

(3) For general assistance only, 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) In general assistance only 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.

(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) For general assistance only the trustee may release to the recipient an amount up to the allowable resource limit for the assistance unit less any amount of existing cash and marketable securities 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. 82-01-009 (Order 1728), § 388-28-440, filed 12/4/81; 80-14-061 (Order 1547), § 388-28-440, filed 10/1/80; 78-10-036 (Order 1338), § 388-28-440, filed 9/18/78; Order 1224, § 388-28-440, filed 7/19/77.]

WAC 388-28-455 Nonexempt resources--Real property--Nonexempt. (1) Any real property other than the home (including life estate not occupied as a home) shall be considered a nonexempt resource in the amount of: (a) The quick sale value if sale is possible, or (b) the income from rental or lease if sale is not possible.

(2) If an applicant has used reasonable diligence in seeking a purchaser, renter or leasee of his nonexempt real property or life estate but is unable to sell, rent or lease the property at any price, no resource value exists pending any change which might give value to the item.

(3) WAC 388-28-400 should be reviewed in connection with these situations. [Statutory Authority: RCW 74.08.090. 82-18-063 (Order 1870), § 388-28-455, filed 9/1/82; Regulation 8.641, filed 1/24/64.]

WAC 388-28-474 Replacement of exempt property.

(1) A recipient may, within sixty days of receipt:

(a) Reinvest in other exempt property funds acquired from a settlement covering destroyed or stolen exempt property;

(b) Pay medical bills for which the settlement was intended.

(2) A general assistance recipient may retain cash from the settlement up to the amount of the difference between current resource values and the appropriate resource ceiling for the assistance unit.

(3) Any remaining portion of the settlement, after applying subsections (1) and (2) of this section, shall be considered newly acquired nonexempt income. [Statutory Authority: RCW 74.08.090. 82-10-059 (Order 1798), § 388-28-474, filed 5/5/82; 82-01-009 (Order 1728), § 388-28-474, filed 12/4/81; 80-14-061 (Order 1547), § 388-28-474, filed 10/1/80; 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 CSO shall determine the income available to the applicant.

(2) An applicant whose nonexempt 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 CSO 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 grant 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, unless the CSO can effect a change in the next month's grant.

(4) Irregular income up to five dollars per month received by a general assistance applicant or recipient may

be disregarded towards meeting need by the CSO if the probability exists that such future income will not be appreciable.

(5) Earned income credit (EIC) payments shall be considered earned income during the month received, whether received as advance payments or as an income tax refund, in accordance with P.L. 96-222.

(a) Such payments shall be considered as an addition to gross income for AFDC and refugee assistance whether actually received or not, providing that the recipient is eligible for such payment.

(b) If the family makes every effort to apply for and receive the advance EIC but cannot receive it for some documented reason, e.g., the employer refuses to process it, it shall not be deemed as income.

(c) Advance EIC is taken into consideration in the computation of need but is not deemed as income in the one hundred fifty percent test of gross income.

(6) 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.

(7) 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.

(8) WAC 388-28-482 and 388-28-484 cover newly-acquired income received by a recipient.

(9) The rules in this section shall be effective February 1, 1982. [Statutory Authority: RCW 74.08.090. 82-09-034 (Order 1792), § 388-28-480, filed 4/14/82; 82-01-009 (Order 1728), § 388-28-480, filed 12/4/81. Statutory Authority: RCW 74.04.510. 81-08-021 (Order 1628), § 388-28-480, filed 3/25/81. Statutory Authority: RCW 74.08.090. 80-14-061 (Order 1547), § 388-28-480, filed 10/1/80; 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 388-28-481 Nonexempt resources and income known at time of application. Net recurrent or nonrecurrent nonexempt income and nonexempt resource values in cash or kind known to the LO at the time of application shall be taken into account in computing need as specified in WAC 388-28-400 through 388-28-650. WAC 388-28-481 through 388-28-484 shall be applicable when determining the continuing need of the recipient. If a general assistance recipient retains a nonexempt resource which has been used to compute his need at the time of application, the policy in WAC 388-28-484(8) shall be applied to compute his continued need. [Statutory Authority: RCW 74.08.090. 82-01-009 (Order 1728), § 388-28-481, filed 12/4/81; Order 1241, § 388-28-481, filed 9/23/77.]

WAC 388-28-482 Effect of newly acquired income and property on continuing need. "Newly acquired income" means any previously unreported or undiscovered income which has come into the possession or control, in whole or part, of a recipient of public assistance, or of a recipient in suspended grant status.

(1) Whenever a recipient shall come into the possession or control of any income, except as modified in subsection (3), (4) and (5), such income shall be deducted from the cost of total requirements beginning with the effective date specified in WAC 388-28-484. The amount deducted shall equal the following:

(a) The net amount of the income if in cash or its equivalent.

(b) At least his equity in the quick sale value of property other than cash.

(2) When the property is only potentially available for use in meeting the recipient's requirements, WAC 388-28-400(7) applies.

(3) Exceptions. A recipient who comes into the possession and control of property listed in this subsection may retain such property without having the fact of possession or its sale value affect his eligibility or need.

(a) A home used as a residence—see WAC 388-28-420.

(b) Useful and needed clothing, household equipment, food, fuel, and other items included in the requirement standards.

(c) An automobile within the ceiling values in WAC 388-28-430(2).

(4) Recipient with income. The rule in subsection (1) is modified for recipient of AFDC or continuing general assistance with income as follows:

(a) Earned income retained by a child according to WAC 388-28-535(3) shall be considered as the personal property of the family and shall be subject to the ceilings in WAC 388-28-430(2).

(b) Income from the Economic Opportunity Act, Title I of the Elementary and Secondary Education Act, and from WIN, MDTA and CETA is treated according to WAC 388-28-515 and 388-28-570 through 388-28-578.

(c) The possession of any amount of funds from sources listed in subdivisions (a) and (b) in a cash reserve or savings account does not affect the eligibility of

a general assistance recipient. However, if such exempted income is converted into other types of property, WAC 388-28-410 through 388-28-455 apply.

(d) Income from interest on exempt savings, dividends from exempt stocks, increase in life insurance cash surrender value, livestock births, etc., affect eligibility only to the extent that the amount causes the total value of the resource possessed to exceed the ceiling values of the resource. The excess is used to determine financial need and is taken into account when the periodic review of eligibility is made.

(e) Payment for funeral expenses for recipient – When a public assistance recipient dies, his (her) surviving spouse or children or parent of a minor child receiving public assistance, may use any of their exempt or nonexempt resources or income, except the home property, to add to available funeral and burial resources in order to pay for the funeral expenses of the deceased person without affecting their eligibility for public assistance: *Provided, however,* That if the total funeral expenses for the deceased recipient exceeds the department's maximum cost or the amount provided by the recipient toward the total cost of the funeral expense, whichever is the lesser, shall be considered available to meet the public assistance need of the surviving recipient in accordance with this section.

(5) Use of grant and cash reserve in relation to income.

(a) No question about eligibility is raised if public assistance grants and other income which has been considered in computing financial need are used to add to the cash reserve up to the legal personal property limitations – see WAC 388-28-430(2). The cash reserve may exceed the maximum only to the extent these unexpended moneys are on hand within thirty days after their receipt, and by exempted amounts as specified in this section.

(b) A recipient always has the right to make a current expenditure out of a cash reserve and replace it from a succeeding grant, just as he might place his whole grant in a bank account, along with his cash reserve, at the beginning of the month and then spend out of the account during the month.

(c) With respect to income other than savings from grant, see WAC 388-28-484(8).

(6) The rules in this section shall be effective February 1, 1982.

[Statutory Authority: RCW 74.08.090. 82-09-034 (Order 1792), § 388-28-482, filed 4/14/82; 82-01-009 (Order 1728), § 388-28-482, filed 12/4/81; 80-14-061 (Order 1547), § 388-28-482, filed 10/1/80; Order 1241, § 388-28-482, filed 9/23/77.]

WAC 388-28-484 Treatment of newly acquired nonexempt income and resources. (1)(a) Except as specified in WAC 388-28-482(3) newly acquired income reported by the 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) Effective January 1, 1982, for AFDC and refugee assistance, when the assistance unit's income after applicable disregards exceeds its basic requirements, plus authorized additional requirements, the unit shall be ineligible for assistance for the number of full months derived by dividing this total income by the basic requirements.

(i) Any income remaining after this calculation is treated as income received in the first month following the period of ineligibility.

(ii) No adjustment shall be made in the period of ineligibility because of changing or unexpected special needs of the assistance unit, or for other relevant changes in circumstances.

(c) If the nonrecurrent income equals or exceeds one month's requirements for general assistance, 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.

(d) 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.

(e) For general assistance 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 general assistance 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) An applicant or recipient whose nonexempt gross income exceeds one hundred fifty percent of the basic requirements for the appropriate household size plus additional requirements authorized for that assistance unit, is not eligible for AFDC or refugee assistance from the date specified in subsection (1). The income of all members of the assistance unit and the income of natural, adoptive, or stepparents of children in the assistance unit residing in the same household, shall be considered in this test.

(a) Gross income shall be defined as all income not specifically exempted by rule or regulation before applicable program disregards are applied.

(b) If the assistance unit's gross income exceeds one hundred fifty percent of the basic requirements but the net income does not exceed one hundred percent of the basic requirements, the assistance unit shall be ineligible for one full month.

(c) Net income shall be defined as gross income less applicable disregards and deductions, for which the A/R is eligible.

(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.

(9) The rules in this section shall be effective February 1, 1982. [Statutory Authority: RCW 74.08.090. 82-09-034 (Order 1792), § 388-28-484, filed 4/14/82; 82-01-009 (Order 1728), § 388-28-484, filed 12/4/81; 79-06-029 (Order 1396), § 388-28-484, filed 5/16/79; Order 1241, § 388-28-484, filed 9/23/77.]

WAC 388-28-515 Net cash income--Determination--Employment or training expenses--Deductions from gross income. (1) "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) WIN transportation and related expenses (TRE) payments are training incentive payments paid for the first thirty days of employment and are disregarded for AFDC purposes.

(d) A person receiving an MDTA or CETA basic training allowance may not receive an AFDC or continuing general assistance grant concurrently.

(2) In determining net income for general assistance from a training allowance, applicable expenses in subdivisions (3)(a) through (5) shall be deducted from the gross training allowance received.

(3) For general assistance, personal and nonpersonal work expenses computed according to subdivisions (3)(a) through (5) 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. Recipients of WIN transportation and related expenses (TRE) payments may choose the "percentage method."

(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.

(4) For general assistance, 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 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.

(5) For general assistance applicants and recipients 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. [Statutory Authority: RCW 74.08.090. 82-01-009 (Order 1728), § 388-28-515, filed 12/4/81; 80-14-061 (Order 1547), § 388-28-515, filed 10/1/80; 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, and work

expense allowances, 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) For general assistance, 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) in general assistance and is covered by the seventy-five dollars work expense deduction for AFDC and refugee assistance.

(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.

(e) Entertainment expenses.

(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 74.08.090. 82-01-009 (Order 1728), § 388-28-520, filed 12/4/81; 79-04-013 (Order 1369), § 388-28-520, filed 3/15/79.]

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 or her 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) 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 or her 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 is included in the assistance unit, his or her earnings shall be treated as specified in subsection (3)(f) of this section. 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 or her eligibility for medical assistance shall be determined individually.

(3) In determining the amount of a child's earned income available to meet the current need of the assistance unit of which he or she is a member, the following rules apply:

(a) All earned income of a child in an assistance unit shall be disregarded in determining payment amount 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 or her 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 school reopens shall retain his or her 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 thirty-five hours a week or the number of hours considered full time by the industry for which he or she 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 thirty-five hours a week.

(f) In determining the amount of a nonstudent child's earned income available to meet the current needs of the assistance unit, net income shall be computed according to WAC 388-28-570.

(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. 82-13-082 (Order 1831), § 388-28-535, filed 6/21/82; 82-01-009 (Order 1728), § 388-28-535, filed 12/4/81; 80-14-061 (Order 1547), § 388-28-535, filed 10/1/80; 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 388-28-570 Net cash income--Exempt earned income. (1) For rules on exempting earned income of a full or part time student, see WAC 388-28-535. For rules exempting income from training see WAC 388-28-515. For rules on other income see WAC 388-28-580.

(2) As used in this section "earned income" shall mean income in cash or kind earned as wages, salary, commissions, or profit from activities in which the individual is engaged as a self-employed person or as an employee. Earned income may be derived from self-employment (such as business enterprise or farming), or derived from wages or salary received as an employee. It also includes earnings over a period of time for which settlement is made at one time, for example, sale of farm crops, livestock or poultry. Income from rentals is earned income, provided the individual has managerial responsibility for the rental property.

(3) For an AFDC recipient, earned income includes incentive payments under MDTA, earnings under Title I of the Elementary and Secondary Education Act, all earnings received under the Economic Opportunity Act, wages paid under Title I of the Comprehensive Employment and Training Act (CETA), wages from public service employment under CETA, and wages from WIN on-the-job training.

(a) For public service employment under the Emergency Assistance Act and CETA the \$30 plus one-third earned income exemption is applicable.

(b) For public service employment under WIN the \$30 plus one-third earned income exemption does not apply. If net income after work expenses are deducted does not meet need according to department standards, a supplemental grant may be paid.

(4) The above definition of "earned income" excludes:

(a) Returns from capital investment with respect to which the individual is not himself actively engaged, as in a business. For example, under most circumstances, dividends and interest are excluded from "earned income." See WAC 388-28-580.

(b) Benefits accruing as compensation or reward for service, or as compensation for lack of employment, for example, pensions and benefits from labor organizations, veterans' benefits, unemployment compensation, RSDI, etc. See WAC 388-28-580.

(c) Income from WIN or CETA incentive payments, and training related expenses derived from WIN institutional or work experience training and from participation in CETA.

(5)(a) In AFDC and refugee assistance when payment of income earned over a period of more than one

month is delayed, the exemption applies only to the period of payment.

(b) In general assistance, the exemption applies to the period during which it was earned rather than the period of payment.

(6) Aid to families with dependent children and refugee assistance.

(a) The following shall be disregarded sequentially from the monthly gross earned income of each individual member of the assistance unit.

(i) The following amounts for work expenses depending upon the number of hours worked per month.

| Hours worked per month | Work expense deduction |
|---------------------------|---------------------------|
| 0 - 40 | \$ 20.00 |
| 41 - 80 | 40.00 |
| 81 - 120 | 60.00 |
| 121 or more | 75.00 |

(ii) The actual cost, not to exceed the following amounts depending upon the number of hours worked per month for the care of each dependent child or incapacitated adult living in the same home and receiving AFDC or refugee assistance. No deduction shall be made for child care provided by a parent or stepparent.

| Hours worked per month | Child care maximum deductions |
|---------------------------|----------------------------------|
| 0 - 40 | \$ 40.00 |
| 41 - 80 | 80.00 |
| 81 - 120 | 120.00 |
| 121 or more | 160.00 |

(iii) For individuals found otherwise eligible to receive assistance or who have received assistance in one of the prior four months, \$30 plus one-third of the remainder not already disregarded.

(iv) The \$30 and one-third disregard shall be applied for a maximum of four consecutive months; it cannot be applied again until he or she is a nonrecipient for twelve consecutive months.

Total gross monthly earned income for the purpose of this rule means the combined gross earned income of nonstudent dependent children and adults who are included in the AFDC assistance unit.

(b) The exemptions and deductions in subdivision (6)(a) of this section will not be applied for any month if the individual within a period of 30 days preceding the month in which the income was received:

(i) Terminated his employment or reduced his earned income without good cause, or

(ii) Refused without good cause to accept employment in which he is able to engage which is offered through SES, or is otherwise offered by an employer if the offer of such employment is determined by the local office to be a bona fide offer of employment, or

(iii) Failed without good cause as determined by the CSO, to report earnings to the department on or before the twenty-first day of the month following the month in which the income was received. Under these circumstances the \$30 and one-third exemption shall be

counted in the four-month limit. Any circumstance beyond the control of the recipient shall constitute good cause.

(c) If a recipient requests termination in order to break the consecutiveness of the four-month limit for the \$30 plus one-third exemption, and would have been eligible, the months of voluntary nonreceipt of assistance shall be counted toward the four-month limit.

(d) If a recipient quits work without good cause the thirty and one-third exemption shall be deemed to have been received and shall be counted toward the four-month limit.

(e) Months in which the A/R received the thirty and one-third exemption in another state shall apply towards the four-month limit unless there is a break in assistance which was not done voluntarily to break the continuity of the four-month limit.

(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.

(8) The rules in this section shall be effective February 1, 1982. [Statutory Authority: RCW 74.08.090, 82-19-056 (Order 1876), § 388-28-570, filed 9/15/82; 82-09-034 (Order 1792), § 388-28-570, filed 4/14/82; 82-01-009 (Order 1728), § 388-28-570, filed 12/4/81; Order 1236, § 388-28-570, filed 8/31/77; Order 975, § 388-28-570, filed 10/11/74; Order 891, § 388-28-570, filed 12/27/73; Order 749, § 388-28-570, filed 12/7/72; Order 619, § 388-28-570, filed 10/27/71; Order 445, § 388-28-570, filed 4/28/70; Order 372, § 388-28-570, filed 8/1/69; Order 329, § 388-28-570, filed 1/8/69; Order 296, § 388-28-570, filed 8/26/68; Regulation 8.848, filed 10/4/67; Regulation 8.848, filed 5/17/67, 2/3/67, 11/22/66, 12/31/65, 7/13/65, 1/24/64.]

WAC 388-28-575 Disregard of income and resources. (1) In determining need and the amount of the assistance payment in AFDC, the following shall be disregarded as income and resources:

(a) Any grant or loan to any undergraduate student for educational purposes made or insured under any programs administered by the commissioner of education, U.S. department of health and human services. 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 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 thirty dollars 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) The part of a veterans' administration educational assistance payment 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.

(j) HUD community development block grant funds obtained and used under conditions precluding use for current living costs.

(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.

(g) Energy assistance payments. [Statutory Authority: RCW 74.08.090. 82-11-094 (Order 1812), § 388-28-575, filed 5/19/82; 81-10-035 (Order 1651), § 388-28-575, filed 4/29/81; 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 388-28-578 Assistance from other agencies and organizations. (1) Assistance from other agencies and organizations shall not be deducted in determining the amount of assistance to be paid by the department provided that no duplication shall exist between such other assistance and that provided by the department. To assure nonduplication, aid from other agencies will be considered in relation to:

(a) The different purposes for which such aid is granted,

(b) The provision of goods and services not included in the department's standards, and

(c) Conditions that preclude its use for current living costs.

(2) If the assistance is available to meet need, the assistance shall be exempted up to the difference between the need standard and the payment standard. [Statutory Authority: RCW 74.08.090. 82-17-003 (Order 1854), § 388-28-578, filed 8/5/82; Order 891, § 388-28-578, filed 12/27/73.]

WAC 388-28-590 Alien sponsorship--Deeming of income and resources--Overpayments. (1) The following rules shall apply to an alien who applies for AFDC or refugee assistance for the first time after September 30, 1981, and to his or her sponsor.

(2) A sponsor is defined as any person who executed an affidavit(s) of support or similar agreement on behalf of an alien (who is not the child of the sponsor or the sponsor's spouse) as a condition of the alien's entry into the United States.

(3) For a period of three years following entry into the United States, a sponsored alien shall provide the state agency with any information and documentation necessary to determine the income and resources of the sponsor that can be deemed available to the alien, and obtain any cooperation necessary from the sponsor.

(4) For all sections under this part, the income and resources of a sponsor (and the sponsor's spouse if living with the sponsor) shall be deemed to be the unearned income and resources of an alien for three years following the alien's entry into the United States.

(5) Monthly income deemed available to the alien from the sponsor or the sponsor's spouse not receiving AFDC or SSI shall be:

(a) The sponsor's total monthly unearned income, added to the sponsor's total monthly earned income reduced by twenty percent (not to exceed one hundred

seventy-five dollars) of the total of any amounts received by the sponsor in the month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred in producing self-employment income in the month.

(b) The amount described in subdivision (a) reduced by:

(i) The basic requirements standard for a family of the same size and composition as the sponsor and those other people living in the same household as the sponsor who are claimed by the sponsor as dependents to determine his or her federal personal income tax liability but who are not AFDC recipients;

(ii) Any amounts actually paid by the sponsor to people not living in the household who are claimed by the sponsor as dependents to determine his or her federal personal income tax liability; and

(iii) Actual payments of alimony or child support, with respect to individuals not living in the sponsor's household.

(6) Monthly resources deemed available to the alien from the sponsor shall be the total amount of the resources of the sponsor determined as if he or she was applying for AFDC in his state of residence, less one thousand five hundred dollars.

(7) In any case where a person is the sponsor of two or more aliens, the income and resources of the sponsor to the extent they would be deemed the income and resources of any one of the aliens under the provisions of this section shall be divided equally among the aliens.

(8) Income and resources which are deemed to a sponsored alien shall not be considered in determining the need of other unsponsored members of the alien's family except to the extent the income or resources are actually available.

(9) The provisions of this section shall not apply to any alien who is:

(a) Admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act as indicated by Form I-94;

(b) Admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c) of the Immigration and Nationality Act as indicated by Form I-94;

(c) Paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act as indicated by Form I-94;

(d) Granted political asylum by the attorney general under section 208 of the Immigration and Nationality Act as indicated by Form I-94;

(e) A Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422) as indicated by Form I-94; or

(f) The dependent child of the sponsor or sponsor's spouse.

(10) Any sponsor of an alien and the alien shall be jointly and individually liable for any overpayment of assistance made to the alien during the three years after

the alien's entry into the United States due to the sponsor's failure to provide correct information, except where such sponsors were without fault or where good cause existed.

(a) When a sponsor is found to have good cause or be without fault for not providing information to the agency, the sponsor will not be held liable for the overpayment and recovery will not be made.

(b) Good cause and no fault shall be defined as any circumstance beyond the control of the sponsor. [Statutory Authority: RCW 74.08.090. 82-19-056 (Order 1876), § 388-28-590, filed 9/15/82; 82-01-009 (Order 1728), § 388-28-590, filed 12/4/81.]

Chapter 388-29 WAC STANDARDS--ELIGIBILITY

WAC

| | |
|------------|---|
| 388-29-010 | Standards for requirements—Person in own home. |
| 388-29-080 | Monthly cost of basic requirements—Maximums— Person in own home—Person in medical institution. |
| 388-29-100 | Monthly standards—AFDC and continuing general assistance. |
| 388-29-110 | Maximums to monthly standards. |
| 388-29-112 | Consolidated emergency assistance program (CEAP)—Standards of assistance. |
| 388-29-115 | Repealed. |
| 388-29-125 | Cost standards for requirements—Persons in medical institution. |
| 388-29-130 | Cost standards for requirements—Person in congregate care facility. |
| 388-29-135 | Cost standards for requirements—Maternity home care. |
| 388-29-145 | Monthly standards for basic requirements—AFDC— Child in need of specialized education or training. |
| 388-29-155 | Repealed. |
| 388-29-158 | Repealed. |
| 388-29-160 | Standards for additional requirements under specific circumstances—Restaurant meals. |
| 388-29-170 | Repealed. |
| 388-29-180 | Home delivered meals (meals-on-wheels). |
| 388-29-190 | Repealed. |
| 388-29-200 | Standards for additional requirements under specified circumstances—Food for guide dog. |
| 388-29-220 | Standards for additional requirements under specified circumstances—Laundry. |
| 388-29-230 | Winterizing homes. |
| 388-29-260 | Requirements of person in boarding home—Continuing general assistance. |
| 388-29-270 | Additional requirements for emergent situations— AFDC. |
| 388-29-280 | Adult family home care—Cost standards. |
| 388-29-290 | Low-income home energy assistance allowance. |
| 388-29-295 | Standards of assistance for the Supplemental Security Income (SSI) Program. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-29-115 | Supplemental payments for AFDC recipients. [Statutory Authority: RCW 74.08.090. 81-09-041 (Order 1635), § 388-29-115, filed 4/15/81; 80-05-046 (Order 1500), § 388-29-115, filed 4/16/80.] Repealed by 82-01-009 (Order 1728), filed 12/4/81. Statutory Authority: RCW 74.08.090. |
| 388-29-155 | Standards for additional requirements under specified circumstances—Child care expenses for employed persons. [Statutory Authority: RCW 74.08.090. 80-11-055 (Order 1532), § 388-29-155, filed 8/20/80; 79-10-083 (Order 1434), § 388-29-155, filed 9/21/79; 79-06-007 (Order 1393), § 388-29-155, |

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| | 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.] Repealed by 82-01-009 (Order 1728), filed 12/4/81. Statutory Authority: RCW 74.08.090. |
| 388-29-158 | Standards for additional requirements under specified circumstances—Child care expenses for AFDC recipients in approved training plans. [Statutory Authority: RCW 74.08.090. 81-01-017 (Order 1576), § 388-29-158, filed 12/8/80.] Repealed by 81-10-033 (Order 1649), filed 4/29/81. Statutory Authority: RCW 74.08.090. |
| 388-29-170 | Standards for additional requirements under specified circumstances—Daily restaurant meals. [Statutory Authority: RCW 74.08.090. 80-11-055 (Order 1532), § 388-29-170, filed 8/20/80; 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.] Repealed by 81-08-018 (Order 1626), filed 3/25/81. Statutory Authority: RCW 74.08.090. |
| 388-29-190 | Transportation to state of legal residence. [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.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090. |

WAC 388-29-010 Standards for requirements--

Person in own home. (1) The public assistance law directs the department to establish a standard for use in determining whether or not an applicant needs money and if so how much he needs.

(2) The law specifies that grants shall be awarded on a state-wide basis in accordance with standards of assistance established by the department and may vary by geographical areas.

(3) The law also specifies that, except for the consolidated emergency assistance program, the standards shall be the United States department of agriculture thrifty food plan in effect on January 1, 1981, adjusted for family size for the continental United States and as adjusted for the state of Washington according to the schedules found in this chapter.

(4) (a) The law requires that the standards of assistance for any family size shall be adjusted on July 1 of each year to take inflation into account, and (b) state supplements for supplemental security income recipients shall be no less than the levels specified in 42 U.S.C. Section 1618.

(5) The department may prescribe maximums and rateable reductions for grants.

(6) The amount of the grant which is given is the difference between the monthly dollar value of the standard adjusted for the maximum grant limitation when in effect, and the resource value or income which the applicant or recipient possesses, or can obtain. [Statutory Authority: RCW 74.08.090. 81-19-127 (Order 1701), § 388-29-010, filed 9/23/81; 81-10-011 (Order 1643), § 388-29-010, filed 4/27/81; Order 1241, § 388-29-010, filed 9/23/77.]

WAC 388-29-080 Monthly cost of basic requirements--Maximums--Person in own home--Person in medical institution. (1) The standards for basic requirements in WAC 388-29-100 apply to a person in his own

home. The standards in WAC 388-29-150 through 388-29-230 are additional requirements for persons with circumstances as specified.

(2) Individuals in an AFDC or continuing GA assistance unit shall be provided the basic requirements.

(3) Basic requirements for a person in his own home are food, clothing, personal maintenance and necessary incidentals, shelter, household maintenance and energy. The monthly cost standards and maximums thereto, if in effect, are based upon the number of recipients in the assistance unit. When two or more assistance units share a common dwelling, the monthly standard for each is based upon the number of members of that assistance unit. A person receiving Title XVI benefits (SSI) is not considered as a member of an assistance unit.

(4) When a person is in a medical institution basic requirements of food, shelter and household maintenance are not computed in the grant but are paid as a medical care cost.

(5) The monetary allowance for the basic requirements, as determined by the standards in WAC 388-29-100, shall be reduced to the amounts in WAC 388-29-110 when maximum amounts are in effect. [Statutory Authority: RCW 74.08.090, 81-10-011 (Order 1643), § 388-29-080, filed 4/27/81; Order 1248, § 388-29-080, filed 10/25/77, effective 12/1/77; Order 1241, § 388-29-080, filed 9/23/77.]

WAC 388-29-100 Monthly standards--AFDC and continuing general assistance. (1) Effective July 1, 1982, the state-wide monthly need standards for food, clothing, personal maintenance, and necessary incidentals, household maintenance, shelter, and transportation for those owning (including life estate), buying or renting an apartment or house are:

| (a) Recipients in Household | State Standard |
|-----------------------------|----------------|
| 1 | \$ 442 |
| 2 | 560 |
| 3 | 692 |
| 4 | 814 |
| 5 | 939 |
| 6 | 1,064 |
| 7 | 1,230 |
| 8 | 1,362 |
| 9 | 1,494 |
| 10 or more | 1,624 |

(b) Household with supplied shelter.

The monthly standard for supplied shelter includes requirements for food, clothing, personal maintenance and necessary incidentals, household maintenance, and transportation.

| Recipients in Household | All Counties |
|-------------------------|--------------|
| 1 | \$ 172 |
| 2 | 249 |
| 3 | 330 |

| Recipients in Household | All Counties |
|-------------------------|--------------|
| 4 | 411 |
| 5 | 492 |
| 6 | 572 |
| 7 | 653 |
| 8 | 734 |
| 9 | 815 |
| 10 or more | 896 |

(2) Effective July 1, 1982, the state-wide monthly payment levels reflecting 65.2 percent of the need standards shall be:

| (a) Recipients in Household | State Payment Levels |
|-----------------------------|----------------------|
| 1 | \$ 288 |
| 2 | 365 |
| 3 | 451 |
| 4 | 531 |
| 5 | 612 |
| 6 | 693 |
| 7 | 802 |
| 8 | 887 |
| 9 | 974 |
| 10 or more | 1,058 |

(b) Household with supplied shelter.

The monthly payment levels for supplied shelter includes requirements for food, clothing, personal maintenance and necessary incidentals, transportation, and household maintenance.

| Recipients in Household | All Counties |
|-------------------------|--------------|
| 1 | \$ 172 |
| 2 | 249 |
| 3 | 330 |
| 4 | 411 |
| 5 | 492 |
| 6 | 572 |
| 7 | 653 |
| 8 | 734 |
| 9 | 815 |
| 10 or more | 887 |

(3) In computing the grant amount, nonexempt income and resources available to meet need shall be deducted from the monthly payment levels specified in subsection (2) of this section. [Statutory Authority: RCW 74.08.090, 82-17-066 (Order 1862), § 388-29-100, filed 8/18/82; 82-11-001 (Order 1804), § 388-29-100, filed 5/6/82; 81-19-127 (Order 1701), § 388-29-100, filed 9/23/81; 81-10-011 (Order 1643), § 388-29-100, filed 4/27/81; 80-15-002 (Order 1550), § 388-29-100, filed 10/2/80; 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.

(1) Grants to families of eight or more shall not exceed the following maximums. In computing the grant amount nonexempt income and resources available to meet need shall be deducted from the monthly payment levels specified in WAC 388-29-100.

| | Number of recipients in household | | |
|----------|-----------------------------------|--------|------------|
| | 8 | 9 | 10 or more |
| Maximums | \$ 887 | \$ 887 | \$ 887 |

(2) This rule is effective April 1, 1982. [Statutory Authority: RCW 74.08.090. 82-11-001 (Order 1804), § 388-29-110, filed 5/6/82; 81-19-127 (Order 1701), § 388-29-110, filed 9/23/81; 81-10-011 (Order 1643), § 388-29-110, filed 4/27/81; 80-15-002 (Order 1550), § 388-29-110, filed 10/2/80; 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 388-29-112 Consolidated emergency assistance program (CEAP)--Standards of assistance. Effective April 1, 1982, the state-wide standards for the consolidated emergency assistance program shall be paid in the amount necessary to meet allowable emergent needs with the issuance of not more than one hundred percent of the payment standard for any month and issuance of not more than one hundred and twenty-five percent of the payment standard for two months' eligibility. Following are payment maximums:

(1) Number in Household

| | (One-month Maximum) | (Maximum Two-month Total) |
|------------|---------------------|---------------------------|
| 1 | \$ 288 | 360 |
| 2 | 365 | 456 |
| 3 | 451 | 564 |
| 4 | 531 | 664 |
| 5 | 612 | 765 |
| 6 | 693 | 866 |
| 7 | 802 | 1,003 |
| 8 | 887 | 1,109 |
| 9 | 887 | 1,109 |
| 10 or more | 887 | 1,109 |

(2) The following are payment maximums for individual emergent need items payable under consolidated emergency assistance program (CEAP).

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 (or more) |
|-----------|-----|-----|-----|-----|-----|-----|-----|-------------|
| Food | 150 | 190 | 236 | 277 | 320 | 362 | 419 | 463 |
| Shelter | 159 | 202 | 249 | 293 | 338 | 383 | 443 | 491 |
| Clothing | 21 | 26 | 33 | 38 | 44 | 50 | 58 | 64 |
| Minor | | | | | | | | |
| Medical | 54 | 67 | 80 | 100 | 120 | 139 | 157 | 174 |
| Utilities | 32 | 40 | 50 | 59 | 68 | 77 | 88 | 98 |
| Household | | | | | | | | |

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 (or more) |
|--------|----|----|----|----|----|----|----|-------------|
| Maint. | 27 | 34 | 42 | 49 | 56 | 64 | 74 | 82 |

Clothing & transportation - as needed not to exceed the grant maximum. [Statutory Authority: RCW 74.08.090. 82-11-001 (Order 1804), § 388-29-112, filed 5/6/82; 81-19-127 (Order 1701), § 388-29-112, filed 9/23/81; 81-10-011 (Order 1643), § 388-29-112, filed 4/27/81.]

WAC 388-29-115 Repealed. See Disposition Table at beginning of this chapter.

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 thirty-three dollars and fifty cents.

(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) of this section shall be thirty-three dollars and fifty cents.

(3) These standards are effective July 1, 1981. [Statutory Authority: RCW 74.08.090. 81-19-127 (Order 1701), § 388-29-125, filed 9/23/81; 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 thirty-three dollars and fifty cents.

(4) These standards are effective July 1, 1981. [Statutory Authority: RCW 74.08.090. 81-19-127 (Order 1701), § 388-29-130, filed 9/23/81; 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 five hundred forty-one dollars and ten cents per month, which includes forty dollars and sixty-five cents 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, 1982. [Statutory Authority: RCW 74.08.090. 82-17-066 (Order 1862), § 388-29-135, filed 8/18/82; 81-19-127 (Order 1701), § 388-29-135, filed 9/23/81; 80-11-055 (Order 1532), § 388-29-135, filed 8/20/80; 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 388-29-145 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, personal maintenance, and necessary incidentals only. The monthly standard shall be thirty-three dollars and fifty cents. 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, 1981. [Statutory Authority: RCW 74.08.090. 81-19-127 (Order 1701), § 388-29-145, filed 9/23/81; 79-10-083 (Order 1434), § 388-29-145, filed 9/21/79; Order 1241, § 388-29-145, filed 9/23/77.]

WAC 388-29-155 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-29-158 Repealed. See Disposition Table at beginning of this chapter.

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 or her 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 ninety-three dollars and seventy-five cents.

(3) These standards are effective July 1, 1982. [Statutory Authority: RCW 74.08.090. 82-17-066 (Order 1862), § 388-29-160, filed 8/18/82; 81-19-127 (Order 1701), § 388-29-160, filed 9/23/81; 80-11-055 (Order 1532), § 388-29-160, filed 8/20/80; 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 Repealed. See Disposition Table at beginning of this chapter.

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 budget and program analysis at the CSO's request. [Statutory Authority: RCW 74.08.090. 81-19-127 (Order 1701), § 388-29-180, filed 9/23/81; 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 Repealed. See Disposition Table at beginning of this chapter.

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 thirty dollars and fifteen cents.

(2) These standards are effective July 1, 1982. [Statutory Authority: RCW 74.08.090. 82-17-066 (Order 1862), § 388-29-200, filed 8/18/82; 81-19-127 (Order 1701), § 388-29-200, filed 9/23/81; 80-11-055 (Order 1532), § 388-29-200, filed 8/20/80; 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 or her laundry, and

(b) He or she has no one able to perform this service for him or her.

(2) The monthly cost standard for laundry shall be eight dollars and thirty cents.

(3) These standards are effective July 1, 1982. [Statutory Authority: RCW 74.08.090. 82-17-066 (Order

1862), § 388-29-220, filed 8/18/82; 81-19-127 (Order 1701), § 388-29-220, filed 9/23/81; 80-11-055 (Order 1532), § 388-29-220, filed 8/20/80; 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 five hundred dollars 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. 81-19-127 (Order 1701), § 388-29-230, filed 9/23/81; 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 board-ing home--Continuing general assistance. (1) The stand-ard for board and room shall be two hundred seven dollars and fifteen cents per month or six dollars and eighty-five cents per day.

(2) The monthly standard for clothing and personal maintenance and necessary incidentals shall be thirty-three dollars and fifty cents.

(3) These standards are effective July 1, 1982. [Stat-utory Authority: RCW 74.08.090. 82-17-066 (Order 1862), § 388-29-260, filed 8/18/82; 81-19-127 (Order 1701), § 388-29-260, filed 9/23/81; 80-15-002 (Order 1550), § 388-29-260, filed 10/2/80; 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 require-ments shall be allowed in the following emergent situa-tions. In no instances is the payment under this section to exceed one month's payment standard as set in WAC 388-29-100 for renting, owning, or buying.

(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) 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 re-sulting from a fault of the client;

(c) Sudden malfunction resulting in loss of heat, wa-ter, 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;

(d) 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 nec-essary 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;

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

(f) 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 an- other 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 be- come residents. [Statutory Authority: RCW 74.08.090. 82-19-060 (Order 1877), § 388-29-270, filed 9/17/82; 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.

(a) Basic rate three hundred twenty-one dollars and nineteen cents.

(b) Service additions

| | |
|------------------------|---------|
| Health services (each) | \$23.09 |
| 1 - 3 | 34.64 |
| 4 - 7 | 51.95 |
| 8 - 12 | 75.04 |

(2) The monthly cost standard for clothing and per-sonal maintenance and necessary incidentals for a person in an adult family home shall be thirty-three dollars and fifty cents.

(3) These standards are effective January 1, 1982. [Statutory Authority: RCW 74.08.090. 82-17-066 (Or-der 1862), § 388-29-280, filed 8/18/82; 81-19-127 (Order 1701), § 388-29-280, filed 9/23/81; 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.]

WAC 388-29-290 Low-income home energy assist-ance allowance. The department, acting as an agent of

the Washington state planning and community affairs agency within the limits of the DSHS-PCAA agreement, will implement a portion of the Low-Income Home Energy Assistance Program. The following delineates the rules applicable to that portion of the program:

(1) The low-income home energy assistance allowance is a one-time payment to an energy payment assistance unit intended to reduce the burden of the high cost of energy for the winter.

(2) An energy payment assistance unit is defined as a group of food stamp households and/or AFDC, SSI, refugee assistance or GAU payees meeting the definition of household in the Low-Income Home Energy Assistance Act.

(3) Energy payment assistance units:

(a) On the October 1, 1982, warrant roll, and

(b) Having correctly completed and returned an energy assistance application, and

(c) Having incomes at or below one hundred twenty-five percent of the federally established poverty level, and

(d) Residing in shelters which meet the eligibility criteria in the Low-Income Home Energy Assistance Act, and

(e) Not residing at the same address as another applicant according to DSHS automated client files, and

(f) Not living in a subsidized rental unit will be eligible for energy assistance allowances.

(4) A recipient residing in foster care, a subsidized rental housing unit, a group home for developmentally disabled, nursing home, supplied shelter, congregate care facility or an institution for the mentally retarded will not be eligible for an energy assistance allowance.

(5) The energy assistance allowance standards shall be the rates established by the Washington state planning and community affairs agency.

(6) A recipient may request an administrative review by the Washington state planning and community affairs agency regarding denial or underpayment of an energy assistance allowance no later than sixty days after the receipt of notice of denial or payment of benefit.

(7) No energy assistance allowance applications will be accepted after October 22, 1982.

(8) Affidavits and requests to replace lost or stolen checks will not be accepted after September 30, 1983.

(9) Upon cancellation of outstanding warrants or upon verification of forgery as required, DSHS shall immediately initiate replacement of checks reported as lost or stolen.

(10) Energy payments shall be exempt as income and resources for all public assistance programs and food stamps. [Statutory Authority: RCW 74.08.090. 82-23-061 (Order 1909), § 388-29-290, filed 11/17/82. Statutory Authority: RCW 43.20A.550. 82-01-050 (Order 1736), § 388-29-290, filed 12/16/81. Statutory Authority: RCW 74.08.090. 81-08-045 (Order 1631), § 388-29-290, filed 3/31/81. Statutory Authority: RCW 74.04.510 and 74.08.090. 80-05-044 (Order 1498), § 388-29-290, filed 4/16/80.]

WAC 388-29-295 Standards of assistance for the Supplemental Security Income (SSI) Program. (1) Standards of SSI assistance paid to eligible individuals and couples by SSA are:

| | Standard | Federal SSI Benefit | State Supplement |
|------------------------|----------|---------------------|------------------|
| Area I | | | |
| Living alone | | | |
| Individuals | \$322.60 | \$284.30 | \$ 38.30 |
| Couples | | | |
| Both eligible | 462.80 | 426.40 | 36.40 |
| With essential person | 462.80 | 426.80 | 36.00 |
| With ineligible spouse | 462.80 | 284.30 | 178.50 |
| Area II | | | |
| Living alone | | | |
| Individuals | 302.15 | 284.30 | 17.85 |
| Couples | | | |
| Both eligible | 432.85 | 426.40 | 6.45 |
| With essential person | 432.85 | 426.80 | 6.05 |
| With ineligible spouse | 432.85 | 284.30 | 148.55 |
| Shared Living | | | |
| Individuals | 202.22 | 189.54 | 12.68 |
| Couples | | | |
| Both eligible | 300.17 | 284.27 | 15.90 |
| With essential person | 300.17 | 284.54 | 15.63 |
| With ineligible spouse | 300.17 | 189.54 | 110.63 |

(2) These standards are effective July 1, 1982. [Statutory Authority: RCW 74.08.090. 82-17-004 (Order 1855), § 388-29-295, filed 8/5/82; 81-19-127 (Order 1701), § 388-29-295, filed 9/23/81.]

**Chapter 388-33 WAC
AID TO FAMILIES WITH DEPENDENT
CHILDREN AND CONTINUING GENERAL
ASSISTANCE--GRANT OR VENDOR PAYMENT**

| WAC | |
|------------|--|
| 388-33-020 | Payment of grant—Monthly basis. |
| 388-33-051 | Payment of grant—Rounding down. |
| 388-33-055 | Payment of grant—Minimum amount. |
| 388-33-080 | Grant authorization, reauthorization and computation—Authorizing documents. |
| 388-33-085 | Grant authorization, reauthorization and computation—Local office function. |
| 388-33-090 | Grant authorization, reauthorization and computation—State office function. |
| 388-33-115 | Effective date of eligibility—Applicant, reapplicant and reinstated recipient. |
| 388-33-120 | Effective date of eligibility—Exceptions. |
| 388-33-125 | Notification of grant approval. |
| 388-33-135 | Effective date of change in eligibility. |
| 388-33-140 | Effective date of increase or decrease in grant. |

| | |
|------------|--|
| 388-33-165 | Effective date of grant—Fair hearing or court decision involved. |
| 388-33-190 | Effective date of grant—Monthly deduction of overpayment. |
| 388-33-195 | Effective date of grant—Underpayment. |
| 388-33-355 | Suspension of grant. |
| 388-33-370 | Termination of suspended grant. |
| 388-33-377 | Grant continuation pending fair hearing. |
| 388-33-382 | Notification of suspension or termination or reduction of grant—Effect on eligibility and grant. |
| 388-33-387 | Notification of exception to policy request and decision. |
| 388-33-389 | Grievance procedure—Applicants and recipients of public assistance, medical assistance, and social services administered by Title 388 WAC. |
| 388-33-448 | Protective or vendor payment due to mismanagement of AFDC grant—Periodic review of plan. |
| 388-33-460 | Payment to vendor of goods and services. |
| 388-33-576 | Loss, theft or destruction of warrant payable to recipient. |
| 388-33-577 | Repealed. |
| 388-33-595 | One-time grant—Authorization—Disbursement. |
| 388-33-630 | Repealed. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

| | |
|------------|--|
| 388-33-577 | Loss, theft or destruction of cash proceeds from warrant. [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.] Repealed by 82-16-065 (Order 1852), filed 7/30/82, effective 9/1/82. Statutory Authority: RCW 74.08.090. |
| 388-33-630 | Immediate warrants issued by ESSO. [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.] Repealed by 81-09-044 (Order 1637), filed 4/15/81. Statutory Authority: RCW 74.08.090. |

WAC 388-33-020 Payment of grant—Monthly basis. Continuing grants shall be based upon monthly standards of assistance and payment made accordingly, except as provided in WAC 388-33-382 to comply with the advance notification requirement. [Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-020, filed 4/15/81; Order 906, § 388-33-020, filed 2/14/74; Order 694, § 388-33-020, filed 6/29/72; Order 534, § 388-33-020, filed 3/31/71, effective 5/1/71; Regulation 10.12, filed 1/24/64.]

WAC 388-33-051 Payment of grant—Rounding down. Grant payments shall be rounded down to the next whole dollar amount unless the grant is already an even dollar amount. [Statutory Authority: RCW 74.08.090. 82-24-071 (Order 1918), § 388-33-051, filed 12/1/82.]

WAC 388-33-055 Payment of grant—Minimum amount. Grants shall be in the exact amount determined as payable, and rounded down to the next whole dollar. When a grant is less than ten dollars it shall not be paid except for grants that would have exceeded ten dollars prior to the mandatory deduction for recoupment of an overpayment. [Statutory Authority: RCW 74.08.090. 82-24-071 (Order 1918), § 388-33-055, filed 12/1/82;

82-09-034 (Order 1792), § 388-33-055, filed 4/14/82; 82-01-009 (Order 1728), § 388-33-055, filed 12/4/81; Order 534, § 388-33-055, filed 3/31/71, effective 5/1/71; Regulation 10.18, filed 1/24/64.]

WAC 388-33-080 Grant authorization, reauthorization and computation—Authorizing documents. Payments and changes in continuing public assistance grants are reported and authorized by the financial services technician by signature on:

(1) Forms 5822-M to authorize;

(a) Initial, adjusting and regular payment of a prepaid continuing assistance grant and subsequent changes in the amount of grant;

(b) Postpayment to a vendor for nursing home care in a licensed classified private nursing home, or for care in an intermediate care facility.

(2) Form 5822-G for one-time grant, child care payments, and vendor payments. [Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-080, filed 4/15/81; Order 534, § 388-33-080, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-080, filed 5/14/70, effective 6/15/70; Regulation 10.21, filed 1/24/64.]

WAC 388-33-085 Grant authorization, reauthorization and computation—Local office function. (1) The terms "financial services technician," "community service office," "local office," or "CSO administrator or his designee" are used interchangeably in chapter 388-33 WAC.

(2) All grants to new, reopened and reinstated cases shall be authorized for payment by the local office. The authorization of grant form shall be signed and dated by the financial services technician who prepares it, as indicated in WAC 388-33-080. In signing the form the financial services technician attests in behalf of the state of Washington and the department that the eligibility of the individual(s) listed on the form has been established and that a decision has been made as of the effective date to grant assistance in an amount determined by the recipient's circumstances according to department standards.

(3) All changes in grants shall be certified by the worker specifying the change(s) in circumstances except as provided in WAC 388-33-095. The state office authorizes payment of the changed grant as determined by the certified circumstances of the recipient.

(4) The term "regular grant" includes "initial grant" and "adjusting grant." The regular grant authorization includes the initial or adjusting grant and does not require separate authorization. See definitions in WAC 388-22-030.

(5) The effective date of eligibility is determined and specified by the worker when authorizing new, reopened, reinstated, and one-time grants as provided in WAC 388-33-115 and 388-33-120. When grant recomputation is certified, the effective date is determined according to the rules in WAC 388-33-135 through 388-33-190.

(6) Payment of a grant shall continue in the amount authorized unless and until a change in amount, suspension or termination is certified.

(7) When eligibility factors indicate that an applicant will be eligible for not to exceed approximately a thirty day period, the local office shall authorize on the certification and computation of grant form an opening and closing date and determine the amount of assistance for which the applicant is eligible according to the department's monthly continuing assistance standards prorated for the period for which eligibility is authorized. The local office shall issue the applicant an award letter, including the date of opening, the amount of assistance and the date of termination. See WAC 388-33-380 regarding additional content of this notice relative to termination. [Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-085, filed 4/15/81; Order 906, § 388-33-085, filed 2/14/74; Order 534, § 388-33-085, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-085, filed 5/14/70, effective 6/15/70; Regulation 10.22, filed 1/24/64.]

WAC 388-33-090 Grant authorization, reauthorization and computation--State office function. (1) Continuing assistance as authorized by the local office shall be computed by the state office. The amount of a grant (regular and initial or adjusting) shall be computed from the data on the certification and computation of grant form according to the department's standards of assistance.

(2) The certification and computation of grant form prepared by the state office shall be sent to the CSO and retained in the financial case record until further action is indicated.

(3) The state office prepares the regular or supplemental warrant registers and the warrants, and completes the payment process. No change may be made by the state office except as described in WAC 388-33-090 and 388-33-095. [Statutory Authority: RCW 74.08-090. 81-09-044 (Order 1637), § 388-33-090, filed 4/15/81; Order 906, § 388-33-090, filed 2/14/74; Order 534, § 388-33-090, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-090, filed 5/14/70, effective 6/15/70; Regulation 10.23, filed 1/24/64.]

WAC 388-33-115 Effective date of eligibility--Applicant, reapplicant and reinstated recipient. (1) The effective date of eligibility for federal aid grants shall be the date of authorization, or the thirtieth day after application, if more than thirty days are required to determine eligibility.

(2) Beginning May 15, 1981, the effective date for state funded grants shall be the date of authorization or the forty-fifth day after application, if more than forty-five days are required to determine eligibility.

(3) In applying this rule the day application was made is not counted. [Statutory Authority: RCW 74.08.090. 81-12-045 (Order 1661), § 388-33-115, filed 6/3/81; Order 906, § 388-33-115, filed 2/14/74; Order 534, § 388-33-115, filed 3/31/71, effective 5/1/71; Order

449, § 388-33-115, filed 5/14/70, effective 6/15/70; Regulation 10.25, filed 1/24/64.]

WAC 388-33-120 Effective date of eligibility--Exceptions. (1) Change of category

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 ten dollars, 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. 82-09-034 (Order 1792), § 388-33-120, filed 4/14/82; 82-01-009 (Order 1728), § 388-33-120, filed 12/4/81; 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 388-33-125 Notification of grant approval. A continuing assistance applicant or recipient shall be notified when the local office authorizes payment of his/her first regular grant or a change in grant. [Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-125, filed 4/15/81; Order 906, § 388-33-125, filed 2/14/74; Order 534, § 388-33-125, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-125, filed 5/14/70, effective 6/15/70; Order 270, § 388-33-125, filed 12/5/67; Regulation 10.252, filed 7/27/67; Regulation 10.252, filed 7/13/65, 1/24/64.]

WAC 388-33-135 Effective date of change in eligibility. (1) A change in circumstances is any change which affects eligibility and/or continued payment of the grant previously authorized.

(2) When a change of circumstances renders the client ineligible, the effective date of ineligibility is the first of the month following the month in which the change occurred; except when ineligibility is a result of exceeding the one hundred fifty percent test of gross income or as a result of excess income which is being budgeted retrospectively. Under such conditions the effective date of ineligibility follows the rules in WAC 388-33-140 for effective date of increase or decrease in grant. This rule shall be applied to income received on or after February 1, 1982.

(3) When a change of circumstances results in an increase or reduction in the grant, WAC 388-33-140 is applicable. [Statutory Authority: RCW 74.08.090. 82-09-034 (Order 1792), § 388-33-135, filed 4/14/82; Order 1058, § 388-33-135, filed 10/1/75; Order 694, § 388-33-135, filed 6/29/72; Order 534, § 388-33-135, filed 3/31/71, effective 5/1/71; Order 443, § 388-33-135, filed 4/15/70; Regulation 10.26, filed 1/24/64.]

WAC 388-33-140 Effective date of increase or decrease in grant. (1) Increase or reduction in grant:

(a) When a change in circumstances results in an increase or reduction of the assistance grant the effective date of change is the first of the following month providing that the change is reported to the local office by the 21st day of the month.

(b) If the change in circumstances is not reported to the local office by the 21st day of the month the effective date of change is the first of the second month following the month in which the change of circumstances occurred.

(c) If a change of circumstances resulting in a decrease in the grant amount is not reported until the month following its occurrence and after the 21st day of the month in which it is reported an overpayment shall be established.

(d) When a person is added to a grant, the effective date of change shall be the first of the month following the month in which the person entered the household.

(2) The effective date shall never precede the date the circumstances actually changed.

(3) Change in grant involving a cancelled warrant:

When a warrant is cancelled and assistance is to be reissued by an adjusting payment, the effective date of the grant as recomputed by the state office is the first of the month covered by the cancelled warrant. If, according to the rule in subsection (1) of this section, any assistance is due the recipient for a month prior to that covered by the cancelled warrant, the local office shall authorize a one-time grant. [Statutory Authority: RCW 74.08.090. 82-16-065 (Order 1852), § 388-33-140, filed 7/30/82, effective 9/1/82; Order 1058, § 388-33-140, filed 10/1/75; Order 1008, § 388-33-140, filed 2/13/75; Order 966, § 388-33-140, filed 8/29/74; Order 906, § 388-33-140, filed 2/14/74; Order 791, § 388-33-140, filed 4/12/73; Order 534, § 388-33-140, filed 3/31/71, effective 5/1/71; Order 443, § 388-33-140, filed 4/15/70; Order 337, § 388-33-140, filed 2/3/69; Order 275, § 388-33-140, filed 1/29/68; Regulation 10.261, filed 1/24/64.]

WAC 388-33-165 Effective date of grant--Fair hearing or court decision involved. (1) The fair hearing or court decision will specify the effective date of eligibility or change in the grant. The regular grant change is made on the first possible regular warrant roll date. See WAC 388-33-595(2)(c)(v) for payment of any adjusting grant due.

(2) When the initial or final hearing decision is favorable to the appellant, or when the local office decides in favor of the appellant prior to the hearing, the local office shall make corrective payments retroactively to the date an incorrect action was taken or such earlier date as is provided under department rules. [Statutory Authority: RCW 74.08.090. 82-14-047 (Order 1838), § 388-33-165, filed 6/30/82; Order 694, § 388-33-165, filed 6/29/72; Order 534, § 388-33-165, filed 3/31/71, effective 5/1/71; Regulation 10.271, filed 1/24/64.]

WAC 388-33-190 Effective date of grant--Monthly deduction of overpayment. (1) A deduction from the monthly grant when required by WAC 388-44-145 takes effect with the first regular warrant following state office receipt of the certification and computation of grant form, taking into account the warrant roll deadline date and the advance notice period provided in WAC 388-33-376.

(a) The certification and computation of grant form shall not be submitted to start the monthly deduction until after the advance notice period has expired, and it has been confirmed that a fair hearing has not been requested.

(b) If, during the ten day period, the recipient requests a fair hearing regarding the monthly deduction of overpayment, no monthly deduction can be made until after the decision on the fair hearing has been made or the hearing request is withdrawn in writing by the claimant or abandoned.

(2) The local office shall certify discontinuance of the monthly deduction as soon as restitution is completed.

(3) A one-time grant shall be authorized expeditiously to compensate the recipient for an underpayment due to an erroneous monthly deduction. Also see WAC 388-33-595(2)(c)(vii). [Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-190, filed 4/15/81; Order 906, § 388-33-190, filed 2/14/74; Order 694, § 388-33-190, filed 6/29/72; Order 570, § 388-33-190, filed 6/11/71; Order 534, § 388-33-190, filed 3/31/71, effective 5/1/71; Regulation 10.28, filed 1/24/64.]

WAC 388-33-195 Effective date of grant--Underpayment. (1) A current recipient who received less than the correct amount of an assistance grant or service payment due to departmental error shall be paid the amount due.

(2) The effective date of the corrective payment is the date the payment is authorized.

(3) For purposes of determining continued eligibility and amount of assistance, corrective payments shall not be considered as income or as a resource in the month paid nor in the next following month. [Statutory Authority: RCW 74.08.090. 82-01-009 (Order 1728), § 388-33-195, filed 12/4/81; Order 906, § 388-33-195, filed 2/14/74; Order 791, § 388-33-195, filed 4/12/73.]

WAC 388-33-355 Suspension of grant. (1) A suspension action is taken when

(a) A general assistance recipient has income sufficient to meet his maintenance requirements for more than one but not to exceed two months, or

(b) The amount of the monthly grant following the budgeting of income or deduction to make restitution on an overpayment is less than ten dollars per month, or

(c) The recipient has entered or is in an institution and his income is equal to or exceeds his grant requirements but is less than his grant requirements plus medical costs and/or nursing home or intermediate care, or

(d) An AFDC or RA recipient receives an extra paycheck because of an extra week in a month which makes them ineligible for one month.

(2) A suspended grant shall be reinstated when the conditions in subsection (1) cease to exist and the recipient is otherwise eligible.

(3) A suspended grant shall be terminated as provided in WAC 388-33-370.

(4) The rules in this section shall be effective February 1, 1982. [Statutory Authority: RCW 74.08.090. 82-09-034 (Order 1792), § 388-33-355, filed 4/14/82; 82-01-009 (Order 1728), § 388-33-355, filed 12/4/81; Order 906, § 388-33-355, filed 2/14/74; Order 747, § 388-33-355, filed 12/7/72; Order 694, § 388-33-355,

filed 6/29/72; Order 570, § 388-33-355, filed 6/11/71; Order 534, § 388-33-355, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-355, filed 8/14/69; Regulation 10.41, filed 6/30/67; Regulation 10.41, filed 7/13/65, 1/24/64.]

WAC 388-33-370 Termination of suspended grant. A suspended grant shall be terminated when:

(1) The individual dies while the grant is suspended;

(2) The individual does not request reinstatement of grant within fifteen days after leaving an institution, or completing restitution of overpayment by monthly grant deduction;

(3) The individual's resources and/or income increase during the suspension period to the extent he would not be eligible for medical care;

(4) A period of temporary ineligibility has ended and individual is ineligible for some other reason. [Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-370, filed 4/15/81; Order 747, § 388-33-370, filed 12/7/72; Order 534, § 388-33-370, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-370, filed 8/14/69; Regulation 10.421, filed 6/30/67; Regulation 10.421, filed 1/24/64.]

WAC 388-33-377 Grant continuation pending fair hearing. (1) When a recipient of medical benefits, AFDC, refugee assistance, general assistance continuing and/or services files a request for fair hearing according to chapter 388-08 WAC within the advance notice period, assistance shall not be suspended, reduced, or terminated; except assistance shall not be continued when the sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients, unless the reason for an individual appeal is incorrect grant, benefit, or service computation. Assistance will also not be continued if an automatic grant adjustment required either by state or federal law results in termination of a program.

(2) When a recipient requests a fair hearing within the advance notice period to appeal the department's planned action to reduce, suspend, or terminate assistance, which is not an automatic grant adjustment required by either state or federal law, 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 an initial 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 initial hearing is held. The department shall promptly inform the client in writing if assistance will not be continued, based on the determination that the issue is one of policy.

(3) Assistance shall be reinstated in any case where the notice to reduce, suspend or terminate does not require advance notice, if the recipient requests a fair

hearing within ten days of the mailing of the notice of action. Subsections (1) and (2) of this section apply.

(4) Assistance shall not be continued under the provisions in this section if the appellant requests in writing that assistance not be continued, or if the request is withdrawn in writing by the claimant or abandoned.

(5) When the appellant requests a delay in the hearing, the hearings examiner shall determine the reasonableness of the request and whether assistance will be continued during the extended period. Assistance shall be discontinued if the hearings examiner determines that the hearing has been unreasonably delayed by the appellant.

(6) Any assistance received pending a fair hearing or hearing decision is considered to be an overpayment when the fair hearing decision subsequently finds against the client. [Statutory Authority: RCW 74.08.090. 82-08-037 (Order 1784), § 388-33-377, filed 4/1/82. Statutory Authority: RCW 34.04.020 and 74.08.090. 81-17-069 (Order 1695), § 388-33-377, filed 8/19/81. Statutory Authority: RCW 74.08.090. 81-09-058 (Order 1640), § 388-33-377, filed 4/20/81; 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 388-33-382 Notification of suspension or termination or reduction of grant--Effect on eligibility and grant. (1) Rules governing the effective dates of eligibility resulting from changes in circumstances are not altered by rules on notification.

(2) Compliance with a required advance notice period may in some instances necessitate issuing assistance on a partial month basis.

(a) When a proposed action cannot be effected on the date specified by rules on eligibility and grant changes, assistance shall be continued unchanged until the end of the advance notice period. Monthly payment shall be prorated for the number of days needed.

(b) Assistance granted during a required advance notice period is considered to be an overpayment when the client is ineligible for payment or when payment is received because the required advance notice period extends into the following month during which the recipient is not eligible. [Statutory Authority: RCW 74.08.090. 82-08-037 (Order 1784), § 388-33-382, filed 4/1/82; Order 906, § 388-33-382, filed 2/14/74; Order 791, § 388-33-382, filed 4/12/73; Order 694, § 388-33-382, filed 6/29/72.]

WAC 388-33-387 Notification of exception to policy request and decision. Within ten days of such decision, the CSO shall notify an applicant or recipient in writing:

(1) Of a decision to not initiate an exception to policy when an exception to policy has been requested;

(2) That an exception to policy has been requested;

(3) Of the approval or denial of an exception to policy request. [Statutory Authority: RCW 74.08.090. 82-04-077 (Order 1760), § 388-33-387, filed 2/3/82.]

WAC 388-33-389 Grievance procedure--Applicants and recipients of public assistance, medical assistance, and social services administered by Title 388 WAC. (1) If an applicant or recipient is aggrieved by a decision of the department, he or she shall have the right to present the grievance, in written form, to the supervisor of the line worker with whom the applicant or recipient had previously been dealing.

(2) The supervisor shall make a decision on a grievance and notify the recipient in writing within ten days of receipt of the grievance.

(3) If the applicant or recipient is not satisfied with the decision of the supervisor, he or she shall have the right to present the grievance in writing to the CSO administrator.

(4) The CSO administrator shall make a decision on a grievance and send the applicant or recipient written notice of his or her decision within ten days of receipt of the grievance. This notice terminates the grievance procedure.

(5) The exercise of the right to pursue a grievance shall not in any way preclude the exercise of any rights of the applicant or recipient may have under chapter 388-08 WAC.

(6) If administrative or judicial review is pending on the same issue, the department may choose to respond to the grievance by informing the applicant or recipient that the department prefers that the matter be resolved through the administrative or judicial review process. [Statutory Authority: RCW 74.08.090. 82-04-077 (Order 1760), § 388-33-389, filed 2/3/82.]

WAC 388-33-448 Protective or vendor payment due to mismanagement of AFDC grant--Periodic review of plan. The social services supervisor or local office administrator shall review the conditions relating to the protective or vendor payment plan every three months or more often, if indicated. The review includes evaluation whether:

(1) Conditions justify continuation of the plan or its modification,

(2) Protective payee's responsibilities are being carried out appropriately,

(3) The relative payee can be expected to resume the payee function,

(4) A court appointed guardian or foster care is needed because the relative payee cannot learn the payee functions and it appears the plan will continue beyond two years. [Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-448, filed 4/15/81; Order 700, § 388-33-448, filed 7/27/72; Order 534, § 388-33-448, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-448, filed 3/20/69; Order 322, § 388-33-448, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

WAC 388-33-460 Payment to vendor of goods and services. (1) A vendor payment may be used in place of a one-time payment to provide assistance for an individual who is in emergent need only if:

(a) The individual has been served a sheriff's notice of eviction, and

(i) It is verified that the landlord will not forestall eviction until a one-time payment is received, and

(ii) It is verified that the landlord will not evict the individual after receiving the vendor payment; or

(b) The individual has been served a utility shut-off notice, and

(i) It is verified that the vendor will not forestall shut-off until a one-time grant is received, and

(ii) It is verified that the vendor will not shut off the utility after the vendor payment is received; or

(c) The individual is requesting transportation to his/her state of residence and the means of transportation is provided by a vendor who will accept vendor payment.

(d) The individual requests in writing that a vendor payment be made.

(2) Vendor payments listed in item (1) of this section shall:

(a) Be deducted from the initial and/or regular grant, unless they are issued in place of one-time grant as specified in WAC 388-33-595(2)(c).

(b) Not be authorized to the extent that the individual can meet the emergent need from his/her cash savings.

(3) A vendor payment may be used to provide assistance when a recipient dies before receiving or endorsing a warrant due him and owes for personal and household service, housekeeping service, or board and room. The amount authorized for vendor payment shall equal the portion of the cancelled warrant actually owed to the vendor.

(4) A vendor payment may be used for an AFDC recipient when:

(a) The local office determines that protective payments are necessary due to mismanagement of the grant by the relative payee - see WAC 388-33-440.

(b) A person certified to the WIN program is determined by the state employment service to have refused employment or to participate in the WIN program without good cause, and vendor payments are the necessary form of payment - see WAC 388-33-450.

(c) A parent or other caretaker relative refuses to assign support rights, to cooperate in identifying and locating absent parents, establishing paternity or obtaining support payments.

(5) A vendor payment may be used to provide assistance for a recipient in a licensed and classified nursing home - see WAC 388-34-035 through 388-34-055, or for a recipient in an intermediate care facility - see WAC 388-34-370 through 388-34-384. [Statutory Authority: RCW 74.08.090, 81-09-044 (Order 1637), § 388-33-460, filed 4/15/81; Order 1054, § 388-33-460, filed 9/25/75; Order 747, § 388-33-460, filed 12/7/72; Order 534, § 388-33-460, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-460, filed 5/14/70, effective 6/15/70; Order 341, § 388-33-460, filed 3/20/69; Regulation 10.60, filed 1/24/64.]

WAC 388-33-576 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 CSO that he has not received his warrant or that his unendorsed warrant has been lost, stolen or destroyed is given full consideration. The CSO shall have the recipient payee complete an affidavit or affidavits attesting to the reported facts.

(3) The CSO 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 CSO 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 ten working days from the mailing date of the warrant to allow the warrant to be delivered or returned to the CSO. If the recipient has an emergent situation, the ten day period may be waived by the CSO administrator.

(7) Replacement must be requested directly from disbursements when a loss or nonreceipt is reported to the CSO 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, 81-09-044 (Order 1637), § 388-33-576, filed 4/15/81; 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 Repealed. See Disposition Table at beginning of this chapter.

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.

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

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

(ix) Assistance is being continued in compliance with the ten-day advance notice rules on reduction, suspension or termination of a grant and a partial month payment is required.

(d) Except as provided in subsection (2)(c)(iv) and (v) of this section, 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 date the circumstances change, subject to the limitations and conditions stated in this section. [Statutory Authority: RCW 74.08.090. 82-16-065 (Order 1852), § 388-33-595, filed 7/30/82, effective 9/1/82; 82-01-009 (Order 1728), § 388-33-595, filed 12/4/81; 81-09-044 (Order 1637), § 388-33-595, filed 4/15/81; 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 Repealed. See Disposition Table at beginning of this chapter.

Chapter 388-35 WAC

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

WAC

388-35-010 through 388-35-070 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

| | |
|------------|---|
| 388-35-010 | Conditions of eligibility. [Statutory Authority: RCW 74.08.090. 80-03-052 (Order 1490), § 388-35-010, filed 2/22/80; 79-11-090 (Order 1447), § 388-35-010, filed 10/25/79; 78-10-031 (Order 1337), § 388-35-010, filed 9/15/78.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
| 388-35-020 | Determination of financial need. [Statutory Authority: RCW 74.08.090. 80-02-022 (Order 1471), § 388-35-020, filed 1/9/80; 78-10-031 (Order 1337), § 388-35-020, filed 9/15/78. Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
| 388-35-030 | Certification period. [Statutory Authority: RCW 74.08.090. 78-10-031 (Order 1337), § 388-35-030, filed 9/15/78. Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
| 388-35-050 | Assistance units—Eligible persons. [Statutory Authority: RCW 74.08.090. 78-10-031 (Order 1337), § 388-35-050, filed 9/15/78. Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
| 388-35-060 | Reapplication. [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. Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
| 388-35-070 | Noncontinuing general assistance—Requirements. [Statutory Authority: RCW 74.08.090. 80-15-002 (Order 1550), § 388-35-070, filed 10/2/80; 79-10-085 (Order 1436), § 388-35-070, filed 9/21/79; 78-10-031 (Order 1337), § 388-35-070, filed 9/15/78. Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090. |

WAC 388-35-010 through 388-35-070 Repealed.
See Disposition Table at beginning of this chapter.

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. |
| 388-37-031 | Continuing general assistance—Payment to employable spouse. |
| 388-37-032 | Continuing general assistance—Determination of incapacity. |
| 388-37-035 | Incapacity—Determination of incapacity. |
| 388-37-036 | Incapacity—Functional, mental disorders. |
| 388-37-037 | Continuing general assistance—Refusal to accept available and recommended medical treatment. |
| 388-37-038 | Incapacity—Incapacity review team decision. |
| 388-37-040 | Continuing general assistance—Standards for requirements—Authorization. |
| 388-37-050 | Continuing general assistance—Redetermination of eligibility. |
| 388-37-060 | Congregate care—Alcoholism treatment. |

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 a federal aid grant; except as provided in WAC 388-37-010(2) and whose need is expected to continue for more than a sixty day period, except as provided in WAC 388-37-038 (1) through (4).

(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 GAU provided to the applicant pending approval of the SSI application;

(iii) The applicant meets all other general assistance eligibility requirements.

(b) 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.

(c) Effective March 31, 1981, an SSI recipient whose SSI check has been lost, stolen, missent or otherwise delayed, provided that the recipient agrees in writing to repay the amount of GA-U assistance issued, and the applicant meets all other GA-U eligibility requirements.

(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.

(4) When an SSI check is lost in the mail system, issuance of GA-U will be held in abeyance for ten working days from the first of the month in which the check was issued to allow the warrant to be returned or delivered. If the recipient has an emergent need, the ten-day period may be waived by the CSO administrator.

(5) When determining the amount of the initial SSI payment, do not include any advance payment or payment based upon presumptive disability or presumptive blindness. These payments are not considered SSI benefit payments for interim assistance purposes.

(a) The state cannot be reimbursed for any GAU authorized during the time period these payments cover.

(b) If the amount of the initial SSI payment recovered by DSHS does not meet the amount paid as GAU, the balance must be treated as an overpayment. The period covered by any advance or presumptive payments is not included in this computation.

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. [Statutory Authority: RCW 74.08.090. 82-22-021 (Order 1894), §

388-37-010, filed 10/26/82; 81-15-056 (Order 1681), § 388-37-010, filed 7/17/81; 81-10-010 (Order 1642), § 388-37-010, filed 4/27/81; 80-12-013 (Order 1536), § 388-37-010, filed 8/25/80; 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. 81-12-045 (Order 1661), § 388-37-020, filed 6/3/81; 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.]

WAC 388-37-030 Continuing general assistance--

Eligible persons. When other eligibility has been established, continuing general assistance shall be granted to:

(1) Incapacitated persons. As used in this section incapacitated person means a person who is sixty-five years of age or older or a person who is physically or mentally unable to work as a result of a condition expected to continue for at least sixty days from date of application. Incapacity 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 incapacitated single person age eighteen or older.

(b) A married couple if both persons are incapacitated.

(c) The incapacitated 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).

(d) Persons in approved drug or alcoholism treatment programs may be eligible for less than a sixty-day period in accordance with the terms of their treatment plan.

(2) These rules shall be effective March 1, 1981. [Statutory Authority: RCW 74.08.090. 81-10-010 (Order 1642), § 388-37-030, filed 4/27/81; 80-02-022 (Order 1471), § 388-37-030, filed 1/9/80; 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 388-37-031 Continuing general assistance--Payment to employable spouse. When it has been verified by a physician that it is medically necessary for an employable spouse to be present in the home to care for the incapacitated spouse payment shall be made to the employable spouse. [Statutory Authority: RCW 74.08.090. 81-12-045 (Order 1661), § 388-37-031, filed 6/3/81; Order 1102, § 388-37-031, filed 3/2/76.]

WAC 388-37-032 Continuing general assistance--Determination of incapacity. (1) Eligibility due to incapacity shall be determined by a CSO incapacity review team in accordance with the criteria in WAC 388-37-035.

(2) The incapacity review team shall:

(a) Consider medical and other related evidence of the incapacitating condition and make a decision confirming or denying the existence of eligibility due to incapacity within forty-five days of the date of application, except in circumstances beyond the control of the agency such as failure or delay in securing necessary information or documentation on the part of the applicant, the examining physician or other source of documentation.

(b) Request additional information when necessary.

(c) Determine probable duration of incapacity. The probable duration shall be related to the prognosis for the condition as predicted by the medical evidence but shall not exceed twelve months without a redetermination of incapacity.

(d) Recommend available medical treatment which can reasonably be expected to render the client able to work.

(3) Eligibility cannot be established if an applicant fails to cooperate in obtaining information documenting incapacity. Continued failure to so cooperate during the ten-day period following the mailing of a letter to the applicant's last known address specifically citing the required cooperation shall be grounds for denial of the application for assistance (see WAC 388-38-265).

(4) Cost of necessary medical reports to determine incapacity shall be paid by the department. Payment for such reports shall not be made to DSHS agencies. [Statutory Authority: RCW 74.08.090. 82-22-021 (Order 1894), § 388-37-032, filed 10/26/82; 81-12-045 (Order 1661), § 388-37-032, filed 6/3/81; Order 1145, § 388-37-032, filed 8/26/76; Order 1102, § 388-37-032, filed 3/2/76; Order 1046, § 388-37-032, filed 8/14/75; Order 973, § 388-37-032, filed 9/26/74; Order 904, § 388-37-032, filed 1/31/74.]

WAC 388-37-035 Incapacity--Determination of incapacity. (1) The term "incapacity" refers to the existence of a physiological, emotional and/or mental

impairment which renders the person incapable of gainful employment.

(a) Such incapacity must be verified by medical evidence as specified in WAC 388-37-035(2).

(b) The person must be substantially prevented by reason of the impairment from engaging in a useful occupation. Reasons for unemployment other than incapacity, such as individual employer preferences, business and economic conditions, social handicaps, etc., are not factors to be considered in determining his inability to obtain and continue in employment.

(2) The source of evidence for physiological incapacity will be a written report from a physician for a mental incapacity, the source may be a report from a psychiatrist, clinical psychologist, or mental health professional. Supplemental medical evidence may be obtained from a nurse practitioner, physician's assistant, or DSHS institutions and agencies from which the individual is receiving or has received services. Such reports must include a diagnosis and prognosis for the incapacitating condition and the effect of the condition on the individual's ability to function.

(3) The determination of incapacity will be made on the facts of each case. This requires evaluation of the severity of the impairment and its effect on the individual, and consideration of the individual's abilities, so that it can be determined whether there remains a capacity to engage in a useful occupation. [Statutory Authority: RCW 74.08.090. 82-22-021 (Order 1894), § 388-37-035, filed 10/26/82; 82-12-067 (Order 1819), § 388-37-035, filed 6/2/82; 81-21-038 (Order 1709), § 388-37-035, filed 10/15/81; 81-10-010 (Order 1642), § 388-37-035, filed 4/27/81; 80-12-013 (Order 1536), § 388-37-035, filed 8/25/80; Order 1251, § 388-37-035, filed 11/10/77; Order 1214, § 388-37-035, filed 6/23/77; Order 1173, § 388-37-035, filed 11/24/76; Order 1145, § 388-37-035, filed 8/26/76; Order 1109, § 388-37-035, filed 4/15/76; Order 1102, § 388-37-035, filed 3/2/76; Order 973, § 388-37-035, filed 9/26/74; Order 904, § 388-37-035, filed 1/31/74.]

WAC 388-37-036 Incapacity--Functional, mental disorders. Incapacity due to mental disorders shall be determined on the basis of demonstrable clinical signs and laboratory findings, which provide evidence of significant impairment of ability to work. Impairment of ability to work is reflected in restriction of daily activities and/or constriction of interests and/or impaired ability to care for self and/or impaired ability to relate to others. In addition, one of the following clinical signs or laboratory findings must be present:

(1) The individual with organic brain syndrome demonstrates deterioration in intellectual functioning, manifested by one or more of the following clinical signs:

(a) Marked memory defect for recent events; or

(b) Impoverished, slowed, perseverative thinking, with confusion or disorientation; or

(c) Labile, shallow, or coarse affect.

(2) The individual with functional psychotic disorder manifests one or more of the following clinical signs:

(a) Depression (or elation); or

- (b) Agitation; or
- (c) Psychomotor disturbances; or
- (d) Hallucinations or delusions; or
- (e) Autistic or other regressive behavior; or
- (f) Inappropriateness of affect; or
- (g) Illogical association of ideas.

(3) The individual with functional nonpsychotic disorder (including addictive dependence on alcohol or drugs) manifests one or more of the following clinical signs:

(a) Demonstrable and persistent structural changes mediated through psychophysiological channels (e.g., duodenal ulcer); or

(b) Recurrent and persistent periods of anxiety, with tension, apprehension, and interference with concentration and memory; or

(c) Persistent depressive affect with insomnia, loss of weight, and suicidal preoccupation; or

(d) Persistent phobic or obsessive ruminations with inappropriate, bizarre, or disruptive behavior; or

(e) Persistent compulsive, ritualistic behavior; or

(f) Persistent functional disturbance of vision, speech, hearing, or use of a limb with demonstrable structural or trophic changes; or

(g) Persistent, deeply ingrained, maladaptive patterns of behavior manifested by either:

(i) Seclusiveness or autistic thinking; or

(ii) Pathologically inappropriate suspiciousness or hostility.

(4) The individual with mental retardation manifests significant limitations in mental and social functioning. [Statutory Authority: RCW 74.08.090. 82-22-021 (Order 1894), § 388-37-036, filed 10/26/82.]

WAC 388-37-037 Continuing general assistance--Refusal to accept available and recommended medical treatment. (1) A continuing general assistance applicant or recipient who refuses without good cause to accept available recommended medical treatment, which can reasonably be expected to render him able to work shall be ineligible. The decision that the client has refused such treatment without good cause is based on the best objective judgment of the CSO incapacity review team.

(2) "Available medical treatment" shall mean and include medical, surgical, or mental health services, or any combination thereof.

(3) "Reasonably be expected to render him able to work" shall mean that in the opinion of the incapacity review team, the recommended treatment will restore or substantially improve the individual's ability to work for pay in a regular and predictable manner.

(4) For the purposes of this section, an applicant or recipient has good cause to refuse recommended medical treatment when such refusal is based upon one or more of the following conditions:

(a) The individual is genuinely fearful of undergoing recommended treatment. Such fear may appear to be unrealistic or irrational; however, fear exists in such a degree that treatment would be adversely affected;

(b) The individual could lose a faculty, or the remaining use of faculty he now has, and refuses to accept the risk;

(c) Because of his definitely stated religious scruples, the individual will not accept recommended medical treatment.

(5) Refusal to follow through with available recommended medical treatment without good cause shall result in termination until the person agrees to cooperate in accepting such treatment and the following ineligibility periods have passed:

(a) First refusal - one week;

(b) Second refusal within six months - one month;

(c) Third and subsequent refusals within one year - two months. [Statutory Authority: RCW 74.08.090. 82-22-021 (Order 1894), § 388-37-037, filed 10/26/82; 81-12-045 (Order 1661), § 388-37-037, filed 6/3/81; Order 1102, § 388-37-037, filed 3/2/76; Order 904, § 388-37-037, filed 1/31/74.]

WAC 388-37-038 Incapacity--Incapacity review team decision. (1) Incapacity will be considered to be established without an incapacity review team decision when the person:

(a) Has been determined to be eligible for any benefits based on social security administration disability criteria;

(b) Is eligible for services from the division of developmental disabilities.

(2) Incapacity will be considered established for a period of sixty days without an incapacity review team decision when the person is being released from inpatient psychiatric treatment.

(3) Incapacity due to alcoholism will be considered to be established when an individual is admitted as a resident into intensive or long-term treatment at an alcoholism treatment center or recovery house services as defined in WAC 275-19-020, according to the time limits in WAC 388-37-060.

(4) Incapacity due to abuse of drugs other than alcohol will be considered to be established for a designated period when an individual is admitted as a resident into a certified residential drug treatment program, or certified detoxification program or is accepted into a certified methadone (or approved substitute) maintenance program.

(a) In accordance with the above criteria, incapacity will be considered to be established for the following maximum periods of time:

(i) Detoxification—thirty days.

(ii) Maintenance—sixty days.

(iii) Residential treatment—sixty days.

(b) Assistance shall not be continued beyond the initial period of time described in subdivision (4)(a) of this section without an incapacity review team decision.

(5) Individuals who are found to be incapacitated due to alcoholism or drug abuse must be participating in an approved alcoholism or certified drug treatment program. [Statutory Authority: RCW 74.08.090. 82-22-021 (Order 1894), § 388-37-038, filed 10/26/82.]

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)(a) 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.

(b) If more than forty-five days are required to determine incapacity, and if incapacity is determined to have existed on the date of application, assistance shall be granted effective the forty-fifth day after application, per WAC 388-33-115.

A continuing grant shall not be authorized until incapacity is established by the CSO incapacity review team.

(3) Continuing assistance shall not be authorized following the termination date specified in subsection (2) of this section until continuing incapacity has been redetermined by the CSO incapacity review team.

(4) If a recipient is terminated due to lack or insufficiency of medical evidence to establish incapacity, he/she shall be reinstated the day following the date of termination, if all the following conditions are met:

(a) The lack or insufficiency of medical evidence is not due to failure of the recipient to cooperate in gathering said evidence; and

(b) Additional medical evidence is provided subsequent to the termination, which establishes that the recipient has been, and continues to be, incapacitated since the date of termination; and

(c) The additional medical evidence substantiates incapacity as specified in WAC 388-37-010(1) and 388-37-035. [Statutory Authority: RCW 74.08.090. 82-22-021 (Order 1894), § 388-37-040, filed 10/26/82; 81-12-045 (Order 1661), § 388-37-040, filed 6/3/81; 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 388-37-050 Continuing general assistance--Redetermination of eligibility. (1) Continuing general assistance recipients shall have their continued financial eligibility for such assistance redetermined at least once every six months of continuous receipt of assistance.

(2) When an unemployable recipient of general assistance becomes employable, his eligibility ceases. This decision is made by the CSO incapacity review team.

(3) Whenever a general assistance recipient becomes eligible for AFDC or SSI benefits, he becomes ineligible for continuing general assistance.

(4) Acceptance of available medical treatment. WAC 388-37-037 applies to a recipient as well as to an applicant.

(5) Recipients of continuing general assistance shall be screened to determine appropriateness of referral to other agencies, i.e., SSA, SSI, DVR, VA, which can reasonably be expected to reduce their need for assistance. The decision to recommend referral to other agencies is made by the CSO incapacity review team. A recipient who has been referred and refuses, without good cause to accept referral to other agencies shall be

ineligible. The decision on whether the client had good cause to refuse referral to another agency is made by the CSO incapacity review team. Refusal to accept recommended referral to other agencies without good cause shall result in termination until the person agrees to cooperate in accepting such referral and the following ineligibility periods have passed:

(a) First refusal - one week;

(b) Second refusal within six months - one month;

(c) Third and subsequent refusals within one year - two months. [Statutory Authority: RCW 74.08.090. 82-22-021 (Order 1894), § 388-37-050, filed 10/26/82; Order 1102, § 388-37-050, filed 3/2/76; Order 943, § 388-37-050, filed 6/28/74; Order 904, § 388-37-050, filed 1/31/74; Order 841, § 388-37-050, filed 8/9/73.]

WAC 388-37-060 Congregate care--Alcoholism treatment. (1) For persons eligible for congregate care see WAC 388-15-562.

(2) Alcoholism treatment is provided to the detoxified alcoholic in congregate care facilities for which the treatment program has been approved by the state. Treatment may be:

(a) Intensive inpatient treatment services for thirty days or less

(b) Long term services in a nonintensive program in a residential setting for one hundred and eighty days. This program may be extended in individual cases.

(c) Rehabilitative services in a half-way house setting for up to sixty days.

(3) An individual's need for alcoholism treatment in either a privately or publicly operated facility shall be determined by

(a) Evaluation and recommendation of a state approved community alcoholism center, or

(b) A court order

(4) Persons receiving services in an intensive alcoholism treatment program shall not be required to participate in the cost of care. Following the month of admission income of individuals receiving long term or rehabilitative services shall be considered according to the rules applicable to the program under which the benefits are received. [Statutory Authority: RCW 74.08.044. 82-04-076 (Order 1759), § 388-37-060, filed 2/3/82; Order 1173, § 388-37-060, filed 11/24/76.]

Chapter 388-38 WAC APPLICATION

WAC

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| 388-38-010 | Definitions. |
| 388-38-110 | Time limit for disposal. |
| 388-38-120 | Disposal actions. |

WAC 388-38-010 Definitions. (1) "Application" means a request for financial assistance made by a person in his own behalf or in behalf of another person.

(a) An application for financial assistance has been made when the individual expresses in writing to the CSO his desire to receive assistance.

(b) An application for medical assistance has been made when the individual expresses in writing his desire to receive assistance or to have his eligibility considered.

(2) "Inquiry" means a request for information about the department or its services or about eligibility requirements for assistance. Such inquiry may be followed by an application.

(3) "Statements in support of the application" means specifically form 14PA01 and any other forms required under department regulations which apply to the particular situation. [Statutory Authority: RCW 74.08.090. 81-17-028 (Order 1693), § 388-38-010, filed 8/12/81; Order 1101, § 388-38-010, filed 2/25/76; Order 537, § 388-38-010, filed 3/31/71, effective 5/1/71; Regulation 13.01, filed 7/27/67; Regulation 13.01, filed 1/24/64.]

WAC 388-38-110 Time limit for disposal. (1) Each application shall be acted upon as quickly as possible, and within thirty days unless exceptional circumstances in an individual case require a longer period of time. Although no type of application will necessarily require more than thirty days, it may not be possible to reach a decision in certain circumstances such as:

(a) Cases where eligibility decisions depend on medical reports and there is delay in obtaining such reports from the examining doctor or in securing medical information;

(b) Cases where eligibility decisions depend upon state office action and a delayed decision is caused by the state office not having sufficient or adequate information to make a decision;

(c) Cases where eligibility depends upon extensive property appraisals;

(d) Cases where determination of eligibility requires out-of-state or intercity contacts and where the delaying factor is such correspondence.

(2) Applications for medical assistance will be disposed of in accordance with WAC 388-84-105 and 388-84-110.

(3) For applications submitted in intensive applicant employment services demonstration project areas by persons not exempt from participation under WAC 388-57-095, the date of authorization is the day following termination of participation in the intensive applicant employment services, but shall be no later than thirty days after the date of application unless subsection (1)(a) through (d) of this section is applicable. [Statutory Authority: RCW 74.08.090. 82-07-026 (Order 1779), § 388-38-110, filed 3/11/82; 81-17-028 (Order 1693), § 388-38-110, filed 8/12/81; Order 1165, § 388-38-110, filed 10/27/76; Order 943, § 388-38-110, filed 6/28/74; Order 537, § 388-38-110, filed 3/31/71, effective 5/1/71; Regulation 12.31, filed 1/24/64.]

WAC 388-38-120 Disposal actions. An application for financial assistance shall be disposed of by:

(1) Approval, that is, determination that the applicant is eligible for assistance;

(2) Denial, that is, determination that the applicant is ineligible for assistance; or that eligibility could not be

determined due to lack of information or verification: *Provided*, That, beginning May 15, 1981, a delay in obtaining medical information which is beyond the control of both the applicant and the department, when said information is essential to a determination of eligibility, shall not be the basis for denial of financial assistance.

(3) Withdrawal, that is,

(a) Applicant during or following interview with CSO staff voluntarily requests no further consideration be given to his application. Preferably the applicant should write "withdrawn" on the application form and sign his name. If the applicant verbally requests withdrawal a notation shall be made on the application form and in the case record that the application has been withdrawn at applicant's request; and that a notice has been sent to the applicant confirming his notification to the agency that he does not desire to continue his application.

(b) Applicant for medical assistance fails to file a written application on forms prescribed by the department.

(c) Applicant fails to report for scheduled interview;

(d) Death occurred before determination of eligibility was completed. [Statutory Authority: RCW 74.08.090. 81-12-045 (Order 1661), § 388-38-120, filed 6/3/81; Order 1241, § 388-38-120, filed 9/23/77; Order 1101, § 388-38-120, filed 2/25/76; Order 943, § 388-38-120, filed 6/28/74; Order 537, § 388-38-120, filed 3/31/71, effective 5/1/71; Order 354, § 388-38-120, filed 5/29/69; Order 313, § 388-38-120, filed 10/31/68; Regulation 13.32, filed 1/24/64.]

Chapter 388-40 WAC

ALCOHOLISM DETOXIFICATION PROGRAM

WAC

388-40-010 Eligible persons.

WAC 388-40-010 Eligible persons. (1) Persons eligible for three-day detoxification services for acute alcoholic condition shall be:

(a) All grant, medical, and SSI beneficiaries; and

(b) Individual's whose combined nonexempt income and/or resources do not exceed the AFDC payment standards, and who have not transferred resources within two years prior to the date of application without having received adequate consideration according to the provisions of WAC 388-28-461.

(2) The following resources shall be exempt for the alcoholism detoxification program:

(a) A home.

(b) Household furnishings and personal clothing essential for daily living.

(c) Other personal property used to reduce need for assistance or for rehabilitation.

(d) A used and useful automobile.

(3) The following resources are not exempt:

Cash, marketable securities and any other resource not specifically exempted that can be converted to cash.

(4) The following shall be deducted or exempted from income:

- (a) Mandatory deductions of employment.
- (b) Total income and resources of a noninstitutionalized SSI beneficiary.
- (c) Support payments paid under a court order.
- (d) Payments to a wage earner plan specified by a court in bankruptcy proceedings, or previously contracted major household repairs if failure to make such payments would result in garnishment of wages or loss of employment.
- (5) Recipients receiving detoxification services shall not be required to incur a deductible as a factor of eligibility for the covered period of detoxification.
- (6)(a) Eligibility for the alcoholism detoxification program shall be determined on the basis of information shown on the department's application forms.
- (b) Supplemental forms, verification procedures, and/or face-to-face interviews shall be required only in cases where there is a specific reason for requiring further verification of eligibility.
- (7) When the department is notified within ten working days of the date detoxification began, certification shall cover this period if all eligibility factors have been met.
- (8) The effective period of eligibility shall be continued from the date detoxification treatment began through the end of the month in which the three-day treatment was completed.

(9) Services must meet the following criteria to be paid through the alcoholism detoxification program:

- (a) Such services must be directly related to detoxification, and
- (b) Such services must be performed in a certified detoxification center or a general hospital with certified detoxification facilities. [Statutory Authority: RCW 74.08.090. 82-20-023 (Order 1884), § 388-40-010, filed 9/29/82; 81-10-011 (Order 1643), § 388-40-010, filed 4/27/81.]

**Chapter 388-42 WAC
FUNERAL EXPENSE**

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| WAC | |
| 388-42-020 | Funeral expenses—Definitions and standards. |
| 388-42-030 | Funeral expenses—Eligibility standards. |
| 388-42-040 | Funeral expenses—Resources considered. |
| 388-42-050 | Repealed. |
| 388-42-060 | Repealed. |
| 388-42-070 | Repealed. |
| 388-42-080 | Repealed. |
| 388-42-090 | Repealed. |
| 388-42-110 | Funeral expenses—Interment of two or more bodies in one grave. |
| 388-42-115 | Funeral expenses—Application. |
| 388-42-125 | Funeral expenses—Fair hearing. |
| 388-42-150 | Maximum cost standards for funeral director's services and burial or cremation services. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-42-050 | Funeral expenses—Veterans' burial benefit. [Statutory Authority: RCW 74.08.090. 81-10-011 (Order 1643), § 388-42-050, filed 4/27/81; Order 538, § 388-42-050, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-050, filed 10/20/67; Regulation |
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| | 15.31, filed 1/24/64.] Repealed by 81-17-026 (Order 1691), filed 8/12/81. Statutory Authority: RCW 74.08.090. |
| 388-42-060 | Funeral expenses—Workmen's compensation. [Order 538, § 388-42-060, filed 3/31/71, effective 5/1/71.] Repealed by 81-17-026 (Order 1691), filed 8/12/81. Statutory Authority: RCW 74.08.090. |
| 388-42-070 | Funeral expenses—Social Security death benefit. [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.] Repealed by 81-17-026 (Order 1691), filed 8/12/81. Statutory Authority: RCW 74.08.090. |
| 388-42-080 | Funeral expenses—Railroad retirement death benefit. [Order 538, § 388-42-080, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-080, filed 10/20/67; Regulation 15.34, filed 1/24/64.] Repealed by 81-17-026 (Order 1691), filed 8/12/81. Statutory Authority: RCW 74.08.090. |
| 388-42-090 | Funeral expenses—Life insurance. [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.] Repealed by 81-17-026 (Order 1691), filed 8/12/81. Statutory Authority: RCW 74.08.090. |

WAC 388-42-020 Funeral expenses—Definitions and standards.

(1) "Funeral" shall mean the proper preparation, transportation within the local service area, and care of the remains of a deceased person with needed facilities and appropriate memorial services. Local service area shall mean an area whose boundaries are seventy-five miles from the mortuary.

(2) Burial shall mean necessary costs of a lot or cremation and all services related to interment and the customary memorial marking of a grave.

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

(a) The minimum service shall include:

(i) Transportation of the body from place of death to mortuary within the local service area;

(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 within the local service area;

(vi) Use of the funeral director's staff and facilities when requested for a memorial service.

(b) The minimum standard service shall include all the services of the minimum service plus:

(i) Embalming and care of the body;

(ii) Casket of octagon shape cut panel board top, or of rectangular shape with raised top, covered with crepe or flannel cloth, trimmed with full art lining and six bail handles;

(iii) Use of reposing rooms, chapel, casket coach, one car for family and personal services.

(4) Payment for the minimum standard service shall be authorized only upon request by someone who wishes the deceased to have a minimum standard funeral service and who plans to attend the service. Otherwise, only the minimum service shall be authorized.

(5) 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.

(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.

(6) Payment made for any funeral or burial service by relatives, friends, or any other third party shall be deducted from the payment made by the department.

(7) Donated flowers, music, and ministerial service shall not be deducted from the department's payment. 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, 81-17-026 (Order 1691), § 388-42-020, filed 8/12/81; 81-10-011 (Order 1643), § 388-42-020, filed 4/27/81; 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 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 388-42-040.

(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, except for a social security, veterans' administration, or railroad retirement board death benefit, to apply for any death benefits to which the deceased may be entitled from other public or private agencies or organization.

(7) When a body is claimed for scientific purposes no funeral expenses shall be authorized for payment from public assistance funds. [Statutory Authority: RCW 74.08.090, 81-17-026 (Order 1691), § 388-42-030, filed 8/12/81; 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 388-42-040 Funeral expenses--Resources considered. (1) The resources available for funeral expenses must be taken into consideration in determining eligibility for payment from department's funds.

(2) Resources available for funeral expenses may include, but are not limited to, the following third party payments:

(a) A burial benefit from the United States veterans' administration

(b) Washington state workmen's compensation

(c) A lump sum death benefit for the social security administration

(d) A death benefit from the railroad retirement board

(e) Life or burial insurance proceeds

(f) Decedent's estate

(g) Excess resources and income of a surviving spouse or surviving parents of a minor child as defined by WAC 388-42-030(5)

(3) Use of resources and income available to surviving spouses shall be directed by WAC 388-28-482.

(4) Third party death benefits shall be considered available whether paid, directly payable to, or deposited with a funeral director or any other vendor providing funeral, burial, or cremation services.

(5) The department will be responsible for claiming and collecting the death benefit from the railroad retirement board.

(6) The department may pay the cost of funeral expenses when the deceased leaves assets, if the assets are left to a surviving spouse and/or to minor children and if these assets are resources which would be exempt in determining eligibility for public assistance. The department when it furnishes funeral assistance shall have a lien against said assets. The lien shall be valid for six years from the date of filing with the county auditor and shall have preference to all other claims except prior secured creditors. If the assets remain exempt or if no probate is commenced, the lien shall automatically terminate without further action six years after filing.

(7) Cash or certificates of ownership found among the effects of a deceased recipient left with a friend, nursing home or hospital belong to the estate of the deceased and may be disposed of only in the manner provided by law. [Statutory Authority: RCW 74.08.090. 81-17-026 (Order 1691), § 388-42-040, filed 8/12/81; Order 538, § 388-42-040, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-040, filed 10/20/67; Regulation 15.30, filed 1/24/64.]

WAC 388-42-050 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-42-060 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-42-070 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-42-080 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-42-090 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-42-110 Funeral expenses--Interment of two or more bodies in one grave. The department pays for public assistance burials of two or more bodies in one grave, provided

(1) This type of burial is accepted practice in a cemetery and is available to the general public,

(2) When a body is claimed by relatives or church organizations, permission to bury two or more bodies in one grave is obtained in writing (filed with the CSO) from such relatives or church representatives. If the body is unclaimed, written permission shall be secured from the board of county commissioners, or its duly appointed representative, and filed with the CSO.

Relatives or friends of the deceased, the county commissioners, or other persons are not to be led to believe that the department's rules limit interment to this type burial. It should be impressed upon such persons that they, rather than the department, are responsible for interment or burial. [Statutory Authority: RCW 74.08.090. 81-17-026 (Order 1691), § 388-42-110, filed 8/12/81; Order 612, § 388-42-110, filed 9/27/71; Order 538, § 388-42-110, filed 3/31/71, effective 5/1/71;

Order 371, § 388-42-110, filed 8/1/69; Order 278, § 388-42-110, filed 2/14/68; Order 242, § 388-42-110, filed 10/20/67; Regulation 15.40, filed 1/24/64.]

WAC 388-42-115 Funeral expenses--Application.

(1) The department's legal responsibility for a deceased person does not extend beyond the responsibility of providing funds to meet the funeral expenses. In no case does the department authorize the funeral, burial, or any other disposition of a deceased person. The authority to authorize funerals and burials is vested by statute in other designated individuals including the county commissioners in the case of an unclaimed body.

(2) Application for the payment of funeral expenses shall be made by any relative, friend, or church organization claiming the remains or, if no such person or organization exists, by the board of county commissioners, or its duly appointed representative. [Statutory Authority: RCW 74.08.090. 81-17-026 (Order 1691), § 388-42-115, filed 8/12/81; Order 612, § 388-42-115, filed 9/27/71.]

WAC 388-42-125 Funeral expenses--Fair hearing.

Relatives or friends of the deceased who apply for payment of funeral expenses shall have the right to a fair hearing if dissatisfied with the CSO decision on their request. [Statutory Authority: RCW 74.08.090. 81-17-026 (Order 1691), § 388-42-125, filed 8/12/81; Order 538, § 388-42-125, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-125, filed 10/20/67; Regulation 15.50, filed 1/24/64.]

WAC 388-42-150 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) . \$250
 - Child (casket 2 feet 6 inches, less than 5 feet) \$195
 - Child (casket less than 2 feet 6 inches) \$ 94
- (b) Minimum standard service
 - Adult or older child (casket 5 feet or larger) . \$573
 - Child (casket 2 feet 6 inches, less than 5 feet) \$242
 - Child (casket less than 2 feet 6 inches) \$ 94
- (2) Burial or cremation services
 - (a) Burial only \$258
 - Burial in grave of another \$258
 - Burial with lot included \$290
 - (b) Cremation only \$258
 - Cremation with burial place included \$265
- (3) These standards include all applicable taxes.

(4) These standards shall be effective January 1, 1982. [Statutory Authority: RCW 74.08.090. 82-06-050 (Order 1772), § 388-42-150, filed 3/3/82; 81-17-026 (Order 1691), § 388-42-150, filed 8/12/81; 80-11-055 (Order 1532), § 388-42-150, filed 8/20/80; 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

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|------------|--|
| 388-44-010 | Overpayment--Defined. |
| 388-44-020 | Fraud--Defined. |
| 388-44-035 | Overpayment--Amount. |
| 388-44-040 | Repealed. |
| 388-44-050 | Overpayment--Relationship to underpayment. |
| 388-44-110 | Overpayment--Liability. |
| 388-44-115 | Verification of overpayment. |
| 388-44-125 | Repayment of overpayment from current recipients. |
| 388-44-127 | Repayment of overpayment resulting from department error. |
| 388-44-130 | Repayment of overpayment from former recipients. |
| 388-44-140 | Responsibility for recovery of overpayment. |
| 388-44-145 | Involuntary repayment of overpayment--Mandatory grant deduction. |
| 388-44-150 | Involuntary repayment of overpayment--Lien on property. |
| 388-44-250 | Gifts, bequests by will, contributions. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-44-040 | Overpayment--Due to need factor. [Order 539, § 388-44-040, filed 3/31/71, effective 5/1/71; Order 396, § 388-44-040, filed 10/15/69; Regulation 16.12, filed 1/24/64.] Repealed by 81-09-045 (Order 1638), filed 4/15/81. Statutory Authority: RCW 74.08.090. |
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WAC 388-44-010 Overpayment--Defined. (1) "Overpayment" means any grant or medical assistance paid to a person not eligible or grant or medical assistance paid to an eligible person in excess of the amount the person was eligible to receive.

(2) An overpayment includes:

(a) Vendor payments for medical care provided during a period when the individual was not eligible for public assistance,

(b) Payments made pending a fair hearing when the fair hearing decision subsequently finds against the client,

(c) Payments made during the ten day advance notice period when the client is ineligible for payment, and

(d) Continued payments received by the recipient because the appropriate ten day advance period extends into the next month.

(3) Funeral expenses paid by the department are an overpayment to the extent the value of the estate is not used as a resource in determining eligibility. However, the department's funeral expense payment is not repayable when the estate consists only of assets (resources) which are exempt in determining eligibility for public assistance for the surviving spouse and/or dependents. [Statutory Authority: RCW 74.08.090. 82-04-072 (Order 1755), § 388-44-010, filed 2/3/82; 81-09-045 (Order 1638), § 388-44-010, filed 4/15/81; Order 1058, § 388-44-010, filed 10/1/75; Order 800, § 388-44-010, filed 5/25/73; Order 539, § 388-44-010, filed 3/31/71,

effective 5/1/71; Order 396, § 388-44-010, filed 10/15/69; Regulation 16.01, filed 1/24/64.]

WAC 388-44-020 Fraud--Defined. (1) "Fraud" shall mean a deliberate, intentional, and willful act, with the specific purpose of deceiving the department with respect to any material fact, condition, or circumstance affecting eligibility or need.

(a) "Act" as used here includes the willful failure to act when there is a lawful duty to act, and the willful concealment of or failure to reveal information when there is a lawful duty to reveal such information.

(b) An act based on ignorance, confusion, or mistake and done without intention to deceive shall not be considered fraudulent.

(c) An applicant or recipient shall not be charged with fraud when an overpayment is directly due to any omission, neglect, or error by the department in securing, recording, or acting on information, but shall be responsible for repayment of the overpayment pursuant to the applicable rules in WAC 388-44-127, 388-44-130, and 388-44-140.

(2) The failure of any recipient of public assistance to notify the department within twenty days of any change in circumstances affecting eligibility or need, including receipt or possession of all income or resources not previously declared to the department, shall be prima facie evidence of fraud. When a local office finds that an applicant or recipient has misstated or failed to reveal any material fact affecting eligibility or need, it shall presume that such act was done intentionally.

(3) It shall be the duty of the department, whenever it finds misstatement or failure to reveal pertinent facts or circumstances, to secure further evidence, whenever possible, which enables it to formulate a firm opinion as to whether or not the act was committed intentionally and fraudulently. In the absence of such further evidence, the presumption is not overcome; however, such presumption is rebuttable.

(4) The department must inform all applicants and recipients of their rights and responsibilities concerning eligibility for and receipt of assistance.

(5) See chapter 388-46 WAC for referral to county prosecutor for possible criminal action. [Statutory Authority: RCW 74.08.090. 81-09-045 (Order 1638), § 388-44-020, filed 4/15/81; Order 843, § 388-44-020, filed 8/9/73; Order 800, § 388-44-020, filed 5/25/73; Order 539, § 388-44-020, filed 3/31/71, effective 5/1/71; Regulation 16.02, filed 1/24/64.]

WAC 388-44-035 Overpayment--Amount. (1) The amount of overpayment shall be determined as follows:

(a) If assistance is obtained as a result of a willful act of the recipient to deceive the department, the overpayment shall be one hundred twenty-five percent of the amount of assistance, including medical care, to which the assistance unit was not entitled.

(b) If no willful act to deceive is involved, the overpayment shall be the amount of assistance, including medical care, to which the assistance unit was not entitled.

(c) To determine the amount to which the assistance unit was not entitled in (a) and (b) of this subsection the overpayment shall be reduced:

(i) By the amount of assistance that the assistance unit would have been eligible to receive during the period of ineligibility from any other category of assistance.

(ii) For overpayments incurred in months prior to October 1, 1981, only the amount of any child care paid by a recipient while earning unreported wages in the amount the department would have paid if the employment and child care had been properly reported. For AFDC or refugee assistance overpayments incurred after October 1, 1981, there will be no allowable work expenses computed in determining the amount of an overpayment resulting from unreported wages. For general assistance overpayments incurred after October 1, 1981, the amount of any child care paid by a recipient while earning unreported wages in the amount the department would have paid if the employment and child care had been properly reported.

(iii) By the amount of child support, paid by the absent parent for the month of overpayment, in excess of the amount of assistance the assistance unit was actually entitled.

(2) When establishing an overpayment for a period of time containing both overpayments and underpayments any overpayment shall be reduced by the amount of any underpayment.

(3) Underpayments, not negated by being budgeted against an overpayment established at the same time, will be paid to recipients upon discovery. Underpayments to former recipients will not be paid unless specifically ordered by a decision of the courts or a fair hearing. [Statutory Authority: RCW 74.08.090. 82-04-072 (Order 1755), § 388-44-035, filed 2/3/82; 81-09-045 (Order 1638), § 388-44-035, filed 4/15/81; Order 539, § 388-44-035, filed 3/31/71, effective 5/1/71; Order 396, § 388-44-035, filed 10/15/69; Regulation 16.11, filed 1/24/64.]

WAC 388-44-040 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-44-050 Overpayment--Relationship to underpayment. The assistance unit's over- or underpayment is the net amount or difference between any incorrect payments or computations. Over- or underpayment in one assistance unit shall not be credited to any other assistance unit. [Statutory Authority: 74.08.090. 82-04-072 (Order 1755), § 388-44-050, filed 2/3/82; Order 539, § 388-44-050, filed 3/31/71, effective 5/1/71; Regulation 16.14, filed 1/24/64.]

WAC 388-44-110 Overpayment--Liability. (1) Overpayments may be recovered from:

(a) The assistance unit which was overpaid;

(b) Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member, or

(c) Any individual members of the overpaid assistance unit whether or not currently a recipient.

(2) The exception to this rule is the individual acting as payee only and deriving no financial benefit from the payment of assistance. In such instance the overpayment account receivable is established in the name of the person who received the financial benefit of the payment of assistance.

(3) There shall be no liability placed upon recipients of nonfraudulent general assistance overpayments when the department determines that the cost of collection exceeds the amount recoverable. The department has determined that the cost of collection exceeds the amount recoverable when the total overpayment being established is fifty dollars or less. [Statutory Authority: RCW 74.08.090. 82-04-072 (Order 1755), § 388-44-110, filed 2/3/82; 80-14-061 (Order 1547), § 388-44-110, filed 10/1/80; Order 800, § 388-44-110, filed 5/25/73; Order 539, § 388-44-110, filed 3/31/71, effective 5/1/71; Regulation 16.24, filed 1/24/64.]

WAC 388-44-115 Verification of overpayment. (1) When an apparent overpayment has occurred, the department shall attempt to verify all pertinent information in the case. The department shall attempt to contact the recipient and request an explanation of the circumstances surrounding the apparent overpayment.

(2) If the recipient does not respond or fails to cooperate, the department shall make an independent determination, based on all available information, that an overpayment either has or has not occurred.

(3) When an overpayment has been verified, the department shall take appropriate action to secure repayment as prescribed by WAC 388-44-125 through 388-44-160. Any such action shall be consistent with departmental rules on notification of suspension, termination, or reduction of grant.

(4) A letter shall be sent to any recipient or payee whose liability for an overpayment has been established. The letter shall include the following information:

- (a) The amount of the overpayment,
- (b) The circumstances which brought about the overpayment,
- (c) The dates on which overpayment occurred,
- (d) An explanation of the method of repayment and the effect of the overpayment on future grant payments,
- (e) A determination that fraud is or is not involved,
- (f) A statement that overpayments are debts due the state,
- (g) A computation of the amount due the state,
- (h) A statement that the financial recovery office is responsible for establishing repayment schedules when recoupment is not subject to a mandatory deduction from the current grant,
- (i) A statement of the right to a fair hearing.

(5) A letter notifying a person of a fraud overpayment must include the following statements in addition to the items in subsection (4) of this section:

(a) Property of the debtor will be subject to collection action after the debtor terminates from public assistance.

(b) Property will be subject to lien and foreclosure, distraint and seizure, and sale or order to withhold and deliver.

(c) Net proceeds of subsection (5)(a) and (b) of this section will be applied to satisfy the overpayment debt.

(d) Action to collect the debt as in subsection (5)(a) and (b) of this section is lawful after ninety days from the debtors termination from public assistance or receipt of the notice of debt, whichever is later.

(6) A person who has incurred a fraud overpayment shall be notified of that debt by:

(a) Personal service, or

(b) Certified mail, return receipt requested, addressee only.

(7) Personal service may be made by:

(a) An employee of DSHS.

(b) The sheriff of the county in which the recipient of public assistance resides. When service is made by the sheriff, an affidavit of service on the county's form will routinely be furnished by the sheriff.

(c) Any other person eighteen years of age or older who is competent to be a witness in the action.

(8) Personal service can be made by delivering a copy of the overpayment letter as follows:

(a) If to a minor, to such minor personally, and also to his or her father, mother, guardian, or if there is none within the state, then to any person having the care, custody or control of such minor or who is the payee of the minor's grant, or with whom he or she resides or in whose service he or she is employed.

(b) If to any person for whom a guardian has been appointed for any cause, then to such guardian.

(c) If to a company or corporation, to the president or other head of the company or corporation, secretary, cashier, or managing agent thereof or the secretary, stenographer or office assistant of the president or other head of the company or corporation, secretary, cashier or managing agent.

(d) In all other cases, to the debtor personally or by leaving a copy of the letter at the residence of the debtor's usual abode with some person of suitable age and discretion residing therein.

(e) If joint liability exists, each debtor shall be provided a copy, except only one copy need be sent to spouses living together.

(f) Out-of-state service shall be the same as personal service within the state.

(g) Refusal of such notice by the debtor is proof of notice to the debtor of the debt owed.

(9) Nothing in this section precludes the department from recovering overpayments by deduction from subsequent assistance payments. [Statutory Authority: RCW 74.08.090. 82-04-072 (Order 1755), § 388-44-115, filed 2/3/82; 81-19-029 (Order 1698), § 388-44-115, filed 9/9/81; Order 800, § 388-44-115, filed 5/25/73.]

WAC 388-44-125 Repayment of overpayment from current recipients. (1) Repayment of an overpayment shall be made by the individual or the overpaid assistance unit from resources and/or income, and/or by deductions from subsequent grants, and/or as a result of

civil or criminal action initiated by the department or the prosecutor, and/or from an estate upon death.

(2) Deleted.

(3) In determining whether a person or assistance unit is financially able to make repayment, he, she, or they, except when fraud is involved, are not asked to mortgage the home or personal property which is being used, or make a loan on life insurance, in order to secure cash to repay the department.

(4) A public assistance money grant may not be reduced to recover overpayments of medical assistance, food coupons, or food commodities.

(5) The recipient is required to pay all overpayments except where recovery is determined to be inequitable under WAC 388-44-127(2). A mandatory grant deduction will be used to liquidate the overpayment.

(6) An additional deduction from subsequent grants can be made if the recipient so requests in writing specifying the amount of the monthly deduction. Voluntary grant deductions may be discontinued or modified at any time upon written request from the recipient. [Statutory Authority: 74.08.090. 82-04-072 (Order 1755), § 388-44-125, filed 2/3/82; Order 965, § 388-44-125, filed 8/29/74; Order 897, § 388-44-125, filed 1/11/74; Order 800, § 388-44-125, filed 5/25/73; Order 539, § 388-44-125, filed 3/31/71, effective 5/1/71; Regulation 16.30, filed 1/24/64.]

WAC 388-44-127 Repayment of overpayment resulting from department error. (1) Overpayments resulting from department error are debts due the state and are subject to mandatory grant deduction except where recovery is determined to be inequitable.

(2) When an overpayment is discovered, and before liability is imposed, the CSO must first determine that recovery would not be inequitable. Recovery shall be deemed inequitable if:

(a) The department admitted or stated to the recipient or to the recipient's authorized representative that the recipient was entitled in whole or in part to the moneys or services overpaid, or acted in a manner which would reasonably lead that recipient to believe that he or she was eligible to receive in whole or in part the moneys or services overpaid; and

(b) The recipient retained or accepted the moneys or services overpaid on the faith of such an admission, statement, act or omission; upon which he or she had a right to rely; and

(c) The recipient would suffer an injury if the department were allowed to repudiate the department's admission, statement, act or omission.

"Injury," as used in this section includes the imposition of liability for repayment of a debt due the state.

(3) 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.

(4) If recovery would not be inequitable, the recipient shall be notified that he or she is liable for repayment of the debt and the overpayment is subject to a mandatory deduction from the current grant. The recipient shall

also be informed as to the specific reasons why recovery would not be inequitable, including a copy of this rule, and as to his or her right to contest such decision.

(5) Department decisions made pursuant to this section shall be subject to fair hearing review in accordance with the procedures set forth in chapter 388-08 WAC and appropriate findings and conclusions shall be made on all of the factors made pertinent in this section. [Statutory Authority: RCW 74.08.090. 82-04-072 (Order 1755), § 388-44-127, filed 2/3/82; 81-05-002 (Order 1596), § 388-44-127, filed 2/5/81; 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.]

WAC 388-44-130 Repayment of overpayment from former recipients. Overpayments are debts due the state. Collection of such debts shall be effected by the department according to established rules and procedures. A former recipient continues to be liable for overpayment debts incurred while he or she was a recipient, until such time as the debt is paid in full or charged off as uncollectible by the secretary and the attorney general. The financial recovery office shall be responsible for establishing a repayment schedule for former recipients. [Statutory Authority: 74.08.090. 82-04-072 (Order 1755), § 388-44-130, filed 2/3/82; Order 965, § 388-44-130, filed 8/29/74; Order 897, § 388-44-130, filed 1/11/74; Order 800, § 388-44-130, filed 5/25/73; Order 539, § 388-44-130, filed 3/31/71, effective 5/1/71; Order 446, § 388-44-130, filed 4/28/70; Regulation 16.31, filed 1/24/64.]

WAC 388-44-140 Responsibility for recovery of overpayment. (1) The local office shall be responsible for effecting repayment of overpayments from current recipients when repayments are to be made by grant deduction as specified in WAC 388-44-145.

(2) The financial recovery office and the attorney general shall be responsible for effecting repayment of overpayments from former recipients. [Statutory Authority: 74.08.090. 82-04-072 (Order 1755), § 388-44-140, filed 2/3/82; Order 897, § 388-44-140, filed 1/11/74; Order 800, § 388-44-140, filed 5/25/73; Order 539, § 388-44-140, filed 3/31/71, effective 5/1/71; Regulation 16.32, filed 1/24/64.]

WAC 388-44-145 Involuntary repayment of overpayment--Mandatory grant deduction. (1) An overpayment shall be recouped by mandatory deduction from future continuing assistance grants except as modified by subsection (2) of this section and WAC 388-44-127.

(2) If an overpayment is subject to recovery by mandatory recoupment and if the recipient has cash, bank accounts, or marketable securities he or she refuses to use in full or partial satisfaction of an overpayment, a monthly deduction of up to one hundred percent of future grant(s) shall be established until such time as the

amount of the grant(s) the recipient would be otherwise eligible to receive equals the value of the cash, bank accounts, or marketable securities which have been withheld.

(3) When deductions have been made pursuant to subsection (2) of this section and the recipient still owes money, or when subsection (2) of this section does not apply,

(a) The department shall, on a case-by-case basis, limit the amount of the monthly deduction so the deduction shall not exceed ten percent of the recipient's total monthly assistance payment unless the recipient voluntarily requests a larger deduction in writing.

(b) Deleted.

(c) Deleted.

(d) When a recipient is in a nursing home, intermediate care facility, or hospital, a monthly deduction may be made against the clothing and incidental grant to the recipient. A monthly deduction shall not be made against the vendor payment to the nursing home or intermediate care facility.

(e) The grant shall be suspended when the monthly deduction is equal to or more than the grant which would have been paid had no overpayment occurred.

(4) Whenever there is a grant deduction, the client shall be informed in writing of the amount of the monthly deduction. The notification shall state the amount of the current grant before and after the deduction is made, the date the deduction begins, the total amount of overpayment to be recouped by grant deduction, and the approximate number of months the deduction will be made.

(5) Mandatory deductions from public assistance grants shall recoup no more than one hundred percent of the amount of assistance that the individual was ineligible to receive. [Statutory Authority: RCW 74.08.090. 82-04-072 (Order 1755), § 388-44-145, filed 2/3/82; 81-09-045 (Order 1638), § 388-44-145, filed 4/15/81; Order 965, § 388-44-145, filed 8/29/74; Order 897, § 388-44-145, filed 1/11/74; Order 800, § 388-44-145, filed 5/25/73; Order 539, § 388-44-145, filed 3/31/71, effective 5/1/71; Order 401, § 388-44-145, filed 11/5/69; Order 324, § 388-44-145, filed 11/27/68; Emergency Order 310, filed 10/18/68; Regulation 16.321, filed 6/30/67; Regulation 16.321, filed 8/29/66, 1/24/64.]

WAC 388-44-150 Involuntary repayment of overpayment--Lien on property. When the department determines that fraud is involved in an overpayment, the filing of a lien against property owned by the individual shall be the responsibility of the financial recovery office. [Statutory Authority: 74.08.090. 82-04-072 (Order 1755), § 388-44-150, filed 2/3/82; Order 800, § 388-44-150, filed 5/25/73; Order 539, § 388-44-150, filed 3/31/71, effective 5/1/71; Regulation 16.322, filed 1/24/64.]

WAC 388-44-250 Gifts, bequests by will, contributions. (1) The department may accept gifts, bequests or

contributions in cash or otherwise from persons, associations, or corporations.

(2) The CSO shall not accept a gift or contribution from a person eligible for public assistance.

(3) A recipient of public assistance or any other person desiring information or assistance regarding the preparation of a will shall be advised to contact an attorney of his or her choice or the local legal aid society. [Statutory Authority: 74.08.090, 82-04-072 (Order 1755), § 388-44-250, filed 2/3/82; Order 539, § 388-44-250, filed 3/31/71, effective 5/1/71; Regulation 16.60, filed 1/24/64.]

Chapter 388-48 WAC SAFEGUARDING INFORMATION

WAC

388-48-010 through 388-48-130 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-48-010 Public assistance information confidential and privileged. [Order 541, § 388-48-010, filed 3/31/71, effective 5/1/71; Regulation 18.10, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-020 Information not confidential. [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.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-030 Conditions and limitations on disclosing confidential information—Inquiry whether individual receives assistance. [Order 1096, § 388-48-030, filed 2/13/76; Order 993, § 388-48-030, filed 12/31/74; Order 541, § 388-48-030, filed 3/31/71, effective 5/1/71; Regulation 18.21, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-033 Conditions and limitations on disclosing confidential information—Request from parent for address or location of child. [Order 1096, § 388-48-033, filed 2/13/76; Order 1030, § 388-48-033, filed 6/12/75; Order 843, § 388-48-033, filed 8/9/73.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-037 Conditions and limitations on disclosing confidential information—Request from law enforcement agency or United States immigration service for address or location of recipient. [Order 993, § 388-48-037, filed 12/31/74; Order 843, § 388-48-037, filed 8/9/73.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-040 Conditions and limitations on disclosing confidential information—Information related to administration of assistance. [Order 541, § 388-48-040, filed 3/31/71, effective 5/1/71; Regulation 18.22, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-050 Conditions and limitations on disclosing confidential information—Release of information to United States armed services. [Order 541, § 388-48-050, filed 3/31/71, effective 5/1/71; Regulation 18.23, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-070 Conditions and limitations on disclosing confidential information—Release of information requested by applicant or recipient. [Order 541, § 388-48-070, filed 3/31/71, effective 5/1/71; Regulation 18.25, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-080 Conditions and limitations on disclosing confidential information—Release of information to applicant or recipient. [Order 541, § 388-48-080, filed 3/31/71, effective 5/1/71; Regulation 18.26, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-100 Employees authorized to disclose information. [Order 541, § 388-48-100, filed 3/31/71, effective 5/1/71; Regulation 18.30, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-110 Distribution of rules and regulations. [Order 541, § 388-48-110, filed 3/31/71, effective 5/1/71; Order 271, § 388-48-110, filed 12/5/67; Regulation 18.40, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-120 Solicitation or use of confidential information. [Order 541, § 388-48-120, filed 3/31/71, effective 5/1/71; Regulation 18.50, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-130 Prohibition against release of confidential and privileged information in judicial proceedings. [Order 541, § 388-48-130, filed 3/31/71, effective 5/1/71; Order 271, § 388-48-130, filed 12/5/67; Regulation 18.60, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.

WAC 388-48-010 through 388-48-130 Repealed.
See Disposition Table at beginning of this chapter.

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 an AFDC participant is certified and assigned to the CETA program by WIN, WIN rules regarding participation requirements are applicable.

(2) He/she is required to participate only if assigned by WIN/E&T. [Statutory Authority: RCW 74.08.090, 81-10-011 (Order 1643), § 388-52-166, filed 4/27/81; 79-03-013 (Order 1368), § 388-52-166, filed 2/15/79; Order 975, § 388-52-166, filed 10/11/74.]

Chapter 388-54 WAC FOOD ASSISTANCE PROGRAMS

WAC

388-54-605 General food stamp provisions.

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| 388-54-615 | Application and participation—Applications processed by the Social Security Administration District Offices (SSADO). |
| 388-54-620 | Application and participation—Interview. |
| 388-54-625 | Application and participation—Time limits. |
| 388-54-630 | Application and participation—Verification. |
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| 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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| 388-54-675 | Work registration requirement. |
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| 388-54-685 | Residency. |
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| 388-54-725 | Income—Definitions. |
| 388-54-730 | Income—Eligibility standards. |
| 388-54-735 | Income—Exclusions. |
| 388-54-737 | Income—Energy allowance. |
| 388-54-740 | Income—Deductions. |
| 388-54-750 | Income—Self-employment. |
| 388-54-760 | Certification periods—Duration. |
| 388-54-765 | Certification periods—Notices to households. |
| 388-54-770 | Certification periods—Households responsibility to report. |
| 388-54-775 | Certification periods—Effecting changes during. |
| 388-54-785 | Issuance—Monthly allotments. |
| 388-54-790 | Issuance—Use and redemption. |
| 388-54-800 | Issuance—Replacement allotments. |
| 388-54-805 | Issuance—Restoration of lost benefits. |
| 388-54-820 | Fair hearings—Continuation of benefits pending. |
| 388-54-821 | Complaints. |
| 388-54-826 | Fraud disqualification—Administrative fraud hearing determined. |
| 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. |

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 the food distribution program, 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) Information available to the public. Federal regulations, federal procedures embodied in FNS notices and policy memos, and state plans of operation (including specific planning documents such as corrective action plans) shall be available upon request for examination by members of the public during office hours at the state agency headquarters. State agency handbooks shall be available for examination upon request at each local certification office within each project area as well as at the state agency headquarters.

(5) The department shall provide any household, aggrieved by the action of the department or an issuing agency in its administration of the program which affects the participation of the household in the program, with a fair hearing upon its request. Chapter 388-08 WAC shall apply unless otherwise indicated in this chapter.

(6) The department shall not discriminate against any applicant or participant in any aspect of program administration, including but not limited to, the certification of households, the issuance of coupons, the conduct of fair hearings or the conduct of any program service for reason of age, race, color, sex, handicap, religious creed, political beliefs, or national origin.

(7) During a presidentially declared disaster or a disaster declared by FNS, the department shall certify affected households in accordance with FNS instructions.

(8) An FNS directive to reduce, suspend or terminate all or any portion of the food stamp program shall require the department to comply in every respect.

(9) A household is not entitled to receive benefits under the food stamp program and the food distribution program administered by an Indian tribal organization during the same calendar month. [Statutory Authority: RCW 74.04.510, 82-24-005 (Order 1905), § 388-54-605, filed 11/18/82; 80-09-076 (Order 1525), § 388-54-605, filed 7/18/80; 79-03-033 (Order 1374), § 388-54-605, filed 3/1/79.]

WAC 388-54-615 Application and participation—Applications processed by the Social Security Administration District Offices (SSADO). (1) The department shall complete the certification of applications for food stamps processed by SSADO without requiring additional personal interviews with the SSI household to present verification.

(2) The department shall not initiate personal contact with the SSI household whose food stamp application is processed by SSADO unless the application is improperly completed, mandatory verification is missing or certain information on the form is questionable. In no event shall an SSI household be required to appear to finalize an eligibility determination on such an application.

(3) The department shall prescreen all SSI/SSADO processed food stamp applications for expedited services on the day the application is received at the correct CSO.

(4) The department shall:

(a) Begin the three day time limit for expedited services on the date the correct CSO receives the application;

(b) Complete the certification of the SSI household application no later than thirty days after the date a completed application is filed at SSADO.

(5) The department shall reassess those households for work registration eligibility if their pending SSI financial application is rejected by SSA.

(6) Effective October 5, 1981, the department shall complete recertification of pure SSI households when such has been requested in a timely manner through, and transmitted by SSADO. The department shall inform any food stamp household consisting only of SSI eligible members that recertification may be requested through SSADO. Subsection (2) of this section applies to the recertification process. [Statutory Authority: RCW 74.04.510. 81-22-082 (Order 1713), § 388-54-615, filed 11/4/81; 80-14-060 (Order 1548), § 388-54-615, filed 10/1/80.]

WAC 388-54-620 Application and participation--Interview. (1) All food stamp households including those submitting applications by mail shall have a face-to-face interview prior to certification or recertification except: Food stamp households where all members are subject to mandatory monthly reporting (MMR) which may, at the option of the department, be excluded from the face-to-face interview requirement at recertification. The individual interviewed may be the head of the household, a spouse, any responsible member of the household or an authorized representative. The applicant may bring any person he or she chooses to the interview. The department shall review the information on the application as well as explore and resolve unclear and incomplete information. Households shall be advised of the rights and responsibilities, to include the appropriate application processing standards and the household's responsibility to report changes.

(2) All food stamp applications from SSI households processed by SSADO are excluded from the department's in-office interview requirement.

(3) 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 (sixty-five or over), mental or physical handicap.

(4) 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. 82-24-005 (Order 1905), § 388-54-620, filed 11/18/82; 80-14-060 (Order 1548), § 388-54-620, filed 10/1/80; 79-03-033 (Order 1374), § 388-54-620, filed 3/1/79.]

WAC 388-54-625 Application and participation--Time limits. The department shall provide eligible households that complete the initial application an opportunity to participate in the program as soon as possible, but no later than thirty calendar days following the date the application was filed. [Statutory Authority: RCW 74.04.510. 82-24-005 (Order 1905), § 388-54-625, filed 11/18/82; 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 department 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 following applies:

(i) The alien may contact INS to obtain the necessary verification.

(ii) If the alien does not wish to contact INS, the household shall be given the option of withdrawing the application or participating without the alien member.

(iii) If an alien is unable to provide INS documents, the department has no responsibility to offer to contact INS on the alien's behalf. The department's responsibility exists only when the alien has an INS document that does not clearly establish eligible or ineligible alien status. The department shall not contact INS to obtain information about the alien's correct status without the alien's written consent.

(iv) While awaiting acceptable verification, the alien whose status is questionable shall be ineligible. The income and resources of the ineligible alien shall be treated in the same manner as a disqualified individual as found in WAC 388-54-830.

(c) Social Security Number (SSN) for each household member eighteen years and over and children receiving countable income (effective June 1, 1980).

(i) Certification shall not be delayed solely for the verification of SSNs, even if the thirty-day processing period has not expired.

(ii) A verified SSN shall be reverified only if the SSN or the identity of the individual becomes questionable.

(iii) If verification of SSN is not completed at initial certification, it shall be completed at the time of or prior to the household's recertification.

(iv) If verification is not completed within ninety days of initial certification, only the individual whose SSN is

not verified shall be disqualified if he or she is unable to show "good cause" for failure to acquire or apply for the SSN. (See WAC 388-54-687).

(d) Identity. The department shall verify the identity of the person making the application. When an authorized representative applies for a household, the identity of the authorized representative and the head of household shall be verified.

(e) Residency. The residency requirements in WAC 388-54-685 shall be verified except in unusual cases (such as migrant households or households newly arrived in the area) where verification of residency cannot reasonably be accomplished.

(f) Continuing shelter expenses. Shelter costs, other than utilities, shall be verified if allowing the expense could potentially result in a deduction. Verification will be on a one-time basis unless the household has moved, reported an increase in cost which would affect the level of the deduction (only the changed cost shall be verified) or unless questionable.

(g) Utility expenses. The department shall verify utility expenses:

(i) If the household is entitled to the utility standard (one qualifying utility shall be verified on a one-time basis unless the household has moved, changed its utilities or the information is questionable), or

(ii) If the household wishes to claim expenses in excess of the utility standard and the expense would actually result in a deduction.

(iii) The utility standard shall be used if the utility expense cannot be verified in the thirty-day application period.

(iv) Utility expenses claimed for an unoccupied home will be the actual expenses incurred.

(2) If a deductible expense which a household is entitled to claim (shelter cost, utilities, medical) cannot be verified within thirty days of the date of application, the department shall determine the household's eligibility and benefit level without providing a deduction of the claimed but unverified expense.

(3) 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.

(4) 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 shall be made 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.

(5) 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.

(6) At recertification, a change in income or source of income, medical expenses or actual utility expenses claimed, in an amount over twenty-five dollars, 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, 82-24-005 (Order 1905), § 388-54-630, filed 11/18/82; 81-11-045 (Order 1653), § 388-54-630, filed 5/20/81; 80-10-043 (Order 1529), § 388-54-630, filed 8/6/80; 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 sufficiently aware of household circumstances and who has been designated in writing by the head of household, spouse or other responsible member of the household 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. The head of the household or the spouse should prepare or review the application whenever possible, even though another household member or the authorized representative will actually be interviewed. The department shall inform the household that the household will be held liable for any overissue which results from erroneous information given by the authorized representative, except for residents in drug and alcohol treatment facilities.

(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) Drug addict or alcohol treatment centers and group homes as authorized representatives. Narcotic addicts or alcoholics who regularly participate in a drug or alcohol treatment program on a resident basis and disabled or blind residents of group living arrangements who receive benefits under Title II or Title XVI of the Social Security Act may elect to participate in the food stamp program.

(a) The resident of drug or alcohol treatment centers shall apply and be certified for program participation through the use of an authorized representative who shall be an employee of and designated by the private nonprofit organization or institution administering the treatment and rehabilitation program. The center, which acts on behalf of eligible persons who reside at the center, shall receive and spend the coupons for food prepared by and/or served to the addict or alcoholic.

(b) Residents of group living arrangements shall either apply and be certified through use of an authorized representative employed and designated by the group living arrangement or apply and be certified on their own behalf or through an authorized representative of their own choice.

(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 food, without the specific written approval of the CSO administrator following a determination that no one else is available to serve.

(b) A multihousehold 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 name of the authorized representative shall be contained in the household's case file and 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.

(5) When the department obtains evidence that an authorized representative has misrepresented a household's circumstances and has knowingly provided false information pertaining to the household or has made improper use of coupons, the department shall disqualify the authorized representative from participating as an

authorized representative for up to one year. The department shall send written notification to the affected household or households and the authorized representative thirty days prior to the date of disqualification. The notification shall include:

(a) The proposed action;

(b) The reason for the action; and

(c) The household's right to request a fair hearing.

This provision is not applicable in the case of drug and alcoholic treatment centers and those group homes which act as authorized representatives for their residents. Refer to WAC 388-54-660(3)(c)(iii) for drug and alcohol treatment centers who commit fraud or misrepresent center residents in the food stamp application process. [Statutory Authority: RCW 74.04.510, 82-24-005 (Order 1905), § 388-54-635, filed 11/18/82; 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 thirty 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) For a household subject to and found eligible under the one hundred thirty percent gross income test, the department shall:

(a) Certify into suspended status that household determined to receive zero prorated allotment during the initial month of eligibility, but determined to receive an allotment in the subsequent month(s); the household shall be converted to participant status the month the allotment is received;

(b) deny a household whose allotment is determined to be zero for the initial and subsequent month;

(c) not refer a household in suspended status for work registration and job search until that household is converted to participant status.

(3) 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.

(4) Households that are found to be ineligible shall be sent a notice of denial as soon as possible but not later than thirty days following the date the application was filed.

(5) If the department does not determine a household's eligibility and provide an opportunity to participate within thirty 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 ten 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 ten days from the date of the department's initial request for the particular verification that was missing, and this ten-day period was documented;

(iv) For households that failed to appear for an interview, the department attempted to reschedule the initial interview within thirty 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 twentieth day but before the thirtieth day following the date the application was filed, the household must appear for the interview, bring verification, and register members for work by the thirtieth 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 thirtieth 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 thirty days to take the required action.

(i) After a notice of denial is sent and the household takes the required action within sixty 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 (5) (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 thirty days period to provide verifications that were missing and the household is determined eligible in this second thirty-day period, the household shall be entitled to benefits retroactive to the month of application.

(6) In cases of delays beyond sixty days.

(a) If the department is at fault for not completing the application process by the end of the second thirty-

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 thirty-day period, the household shall receive benefits retroactive to the month of application.

(ii) If the household was at fault in the first thirty 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 thirty-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 thirty 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 thirty-day period, the department shall deny the application and require the household to file a new application. [Statutory Authority: RCW 74.04.510. 81-23-044 (Order 1720), § 388-54-640, filed 11/18/81; 79-03-033 (Order 1374), § 388-54-640, filed 3/1/79.]

WAC 388-54-645 Application and participation--Expedited service. The department shall 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 on the second working day following the date the application was filed or have the coupons or ATP available for the household to pick up no later than the start of business on 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) Require the applicant to register for work unless exempt or unless the household has designated an authorized representative to apply on the household's behalf; postpone work registration of other members of the household if registration cannot be accomplished within the expedited service time frames.

(c) Benefits shall not be delayed beyond the delivery standard described in subsection (2) of this section solely because income has not been verified.

(d) 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. When social security numbers are the only mandatory items not verified, the household shall be certified for a three-month period. Individuals required to provide SSNs for verification shall do so at, or prior to, recertification unless able to show good cause for not meeting this requirement. If good cause is established, the participant may continue to participate provided the individual has documentation indicating he or she has applied for a SSN. If all necessary verification was postponed the household will be certified for one month only unless the household has applied after the fifteenth of the month. Then the department shall certify the household for the month of application and the subsequent month. When this household has provided the postponed verification, the department shall issue the subsequent month's allotment within five working days from receipt of the verification.

(a) The allotment shall not be issued past the month of application if verification which was postponed is not completed. If the postponed verification is not completed within thirty days of the date of application, the household shall be terminated and no additional allotment issued.

(b) At the time of reapplication, the household shall 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. 82-06-002 (Order 1765), § 388-54-645, filed 2/18/82; 81-23-044 (Order 1720), § 388-54-645, filed 11/18/81; 81-11-045 (Order 1653), § 388-54-645, filed 5/20/81; 80-10-043 (Order 1529), § 388-54-645, filed 8/6/80; 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) Based upon a thirty-day month the department shall issue a coupon allotment valued in direct proportion to the number of days remaining from the date of application to the end of the initial month of eligibility.

(3) 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. 81-23-044 (Order 1720), § 388-54-650, filed 11/18/81; 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 twenty-five dollars from the new source will not be received by the tenth 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 twenty-five dollars from the new source will not be received by the tenth 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 first 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. 81-23-044 (Order 1720), § 388-54-655, filed 11/18/81; 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 sixty years of age or over, or

(b) Must be housebound, physically handicapped or otherwise disabled to the extent household members are unable to adequately prepare all meals, or

(c) Be the spouse of such a person.

(2) Communal dining. Members of eligible households sixty years of age or older and spouses, or members receiving SSI and spouses may use all or any part of coupons to purchase meals prepared especially for the household member at a communal dining facility authorized by FNS for that purpose.

(3) Residents of drug or alcohol treatment and rehabilitation programs. Narcotics addicts or alcoholics regularly participating in a drug or alcoholic treatment and rehabilitation program on a resident basis, may use food coupons to purchase food prepared for or served to the resident during the program, provided:

(a) The program is administered by a private nonprofit organization or institution authorized by FNS as a retailer or certified by the state as providing treatment leading to the rehabilitation of drug addicts or alcoholics pursuant to Public Law 92-255; and

(b) A resident participant shall be certified only under the following conditions:

(i) The resident must voluntarily elect to participate in the food stamp program;

(ii) The resident must be certified through the use of an authorized representative who shall be an employee of, and designated by, the private nonprofit organization administering the treatment and rehabilitation program;

(iii) The resident must be certified as a one-person household.

(c) The drug or alcohol treatment center acting 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 ID cards 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 the household's monthly coupon allotment when the household leaves the program prior to the sixteenth day of the allotment month;

(vi) The center shall provide the department with a certified list of currently participating residents on a monthly basis;

(vii) The treatment center shall return to the department the household's ATP or coupons received after the household has left the center.

(d) If an alcohol treatment and rehabilitation program is located on an Indian reservation and the department does not certify reservation-based centers, approval to participate shall be granted if the center is funded by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) pursuant to Public Law 91-616, or was so funded and subsequently transferred to Indian Health Services (IHS) funding.

(4) Residents of group living arrangements receiving benefits under Title II or Title XVI of the Social Security Act. A group living arrangement is defined as: A public or private nonprofit residential setting serving no more than sixteen residents certified by the appropriate state agencies under regulations issued under Section 1616(e) of the Social Security Act. The following applies:

(a) The resident must voluntarily apply for the food stamp program;

(b) If the resident makes an application through the use of a group home's authorized representative, the resident's eligibility shall be determined as a one-person household. If the resident applies on his or her own behalf, the household size shall be in accordance with the definition in WAC 388-54-665;

(c) The department shall certify residents of group living arrangements using the same provisions applying to all other households;

(d) The department shall verify the group living arrangement is nonprofit and authorized by FNS or is certified by the appropriate agency or agencies of the state;

(e) The group living arrangement shall provide the department with monthly lists of participating residents signed by a responsible center official. The department shall conduct periodic random on-site visits to assure the accuracy of the lists;

(f) If the resident made an application on his or her own behalf, the household is responsible for reporting changes to the department. If the group living arrangement is acting in the capacity of an authorized representative, the group living arrangement shall notify the department of changes in the household's income or other household circumstances and when the individual leaves the group living arrangement;

(g) The group living arrangement shall return any household's ATP cards or coupons to the department if received after the household has left the group arrangement;

(h) When the household leaves the facility, the group living arrangement shall provide the resident with the ID card and any untransacted ATP cards;

(i) The group living arrangement shall provide the departing household with the full allotment if issued by direct mail and if no coupons have been spent on behalf of the individual household. These provisions are applicable any time during the month. If the coupons have already been issued and any portion spent on behalf of the resident, the group living arrangement shall provide the resident with one-half of the monthly household's coupon allotment when the household leaves the facility prior to the sixteenth day of the allotment month;

(j) If a resident or a group of residents apply on their own behalf and retain the use of the coupons, the individuals are entitled to keep the coupons when leaving;

(k) If the group living arrangement acts as the authorized representative the facility must be knowledgeable about the household's circumstances and is responsible for any misrepresentation or fraud the facility knowingly commits in the certification of center residents.

(5) Shelters for battered women and children. Effective April 1, 1982, the following provisions apply prior to certifying residents:

(a) The department shall determine the shelter for battered women and children meets the definition in WAC 388-54-665(6)(d);

(b) Shelters having FNS authorization to redeem at wholesalers shall be considered as meeting the definition for battered women and children;

(c) Shelter residents recently leaving a food stamp household containing a person abusing him or her may apply for and (if otherwise eligible) participate in the program as separate households. Shelter residents included in a previously certified food stamp household shall receive an additional allotment as a separate household only once a month;

(d) Shelter residents applying as separate households shall be certified solely on the basis of income, resources, and the expenses for which the residents are responsible. Residents will be certified without regard to the income, resources, and expenses of the former household;

(e) Jointly held resources shall be considered inaccessible in accordance with WAC 388-54-715. The shelter resident's access to the value of the resources is dependent on the agreement of a joint owner still residing in the former household;

(f) The department shall take prompt action to ensure the former household's eligibility or allotment reflects the change in the household's composition. [Statutory Authority: RCW 74.04.510, 82-24-005 (Order 1905), § 388-54-660, filed 11/18/82; 82-11-092 (Order 1814), § 388-54-660, filed 5/19/82; 81-23-044 (Order 1720), § 388-54-660, filed 11/18/81; 80-10-043 (Order 1529), § 388-54-660, filed 8/6/80; 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 such individuals or groups are not residents of an institution or residents of a commercial boarding house:

(a) An individual living alone.

(b) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from the others.

(c) A group of individuals living together but customarily purchasing food and preparing meals together for home consumption separate and apart from others.

(2) Separate household status shall not be granted to the following:

(a) Children under eighteen years of age under the parental control of a member of the household;

(b) Parents living with children or children living with parents unless at least one parent is sixty years of age or older;

(c) A spouse of a member of the household. Spouse refers to either of two individuals:

(i) Defined as married to each other under applicable state law; or

(ii) Living together and holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

(d) A boarder as defined in WAC 388-54-665(4).

(3) The following individuals residing with a household shall not be considered household members in determining eligibility or allotment and are termed nonhousehold members. Nonhousehold members may, if otherwise eligible, qualify as separate households:

(a) Roomers. Individuals to whom a household furnishes lodging, but not meals, for compensation.

(b) Live-in attendants. Individuals residing with a household to provide medical, housekeeping, child care or other similar personal services.

(c) Ineligible aliens. Individuals not meeting the citizenship or eligible alien status.

(d) Students enrolled in an institution of higher education who are eligible because of not meeting the requirements of WAC 388-54-670.

(e) Disqualified individuals. Individuals disqualified for fraud or failure to provide required social security numbers without good cause.

(f) Other individuals sharing living quarters with the household but do not customarily purchase food and prepare meals with the household.

(4) Boarders are not eligible to participate in the program. A boarder is defined as an individual residing with the household and paying reasonable compensation to the household for lodging and meals. If an applicant household identifies any individual in the household as a boarder, the following provisions apply:

(a) Boarder status shall not be extended to the spouse of a member of a food stamp household, children under eighteen under parental control of a member of the household, children living with parents or parents living with children, unless at least one parent is sixty years of age or older.

(b) Boarder status shall not be extended to 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 equaling or exceeding 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 equaling or exceeding two-thirds of the thrifty food plan for the appropriate size of the boarder household.

(5) Residents of commercial boarding houses are not eligible for program benefits. A boarding house shall be defined as:

(a) An establishment licensed as a commercial enterprise offering meals and lodging for compensation.

(b) In project areas without licensing requirements, a boarding house is a commercial establishment offering 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.

(6) Residents of institutions. Individuals shall be considered residents of an institution when the institution provides the individual with the majority of meals as part of the institution's normal service and the institution has not been authorized to accept coupons. Residents of institutions are not eligible for participation in the program, with the following exceptions:

(a) Residents of federally subsidized housing for the elderly, built under either section 202 of the Housing Act of 1959 or section 236 of the National Housing Act;

(b) Narcotic addicts or alcoholics residing at a facility or treatment center for the purpose of regular participation in a drug or alcohol treatment and rehabilitation program;

(c) Disabled or blind individuals who are residents of group living arrangements and are blind or disabled and receive benefits under Title II or Title XVI of the Social Security Act. Group living arrangement is defined as a public or private nonprofit residential setting serving no more than sixteen residents and certified by appropriate state agencies;

(d) Effective April 1, 1982, women or women with children temporarily residing in a shelter for battered women and children. "Shelter for battered women and children" means a public or private nonprofit residential facility serving battered women and children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children. Such persons temporarily residing in shelters shall be considered individual household units for the purposes of applying for and participating in the program. [Statutory Authority: RCW 74.04.510, 82-11-092 (Order 1814), § 388-54-665, filed 5/19/82; 81-23-044 (Order 1720), § 388-54-665, filed 11/18/81; 80-15-080 (Order 1558), § 388-54-665, filed 10/20/80; 80-10-043 (Order 1529), § 388-54-665, filed 8/6/80; 79-03-033 (Order 1374), § 388-54-665, filed 3/1/79.]

WAC 388-54-675 Work registration requirement.

(1) Each individual between the ages of eighteen and sixty is required to register for employment prior to certification, and once every six 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 twelve years of age, or of an incapacitated person;

If the child has its twelfth 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 eighteen 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;

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 fail to qualify for WIN exemption under other conditions in subsection (1) of this section.

(f) A person who is employed, or self-employed, at least thirty hours per week, or receiving weekly earnings equal to the federal minimum wage, multiplied by thirty hours;

(g) A student enrolled at least half time in any recognized school, training program or institution of higher education provided that those students have met the eligibility conditions in WAC 388-54-670;

(h) A regular participant in a drug addiction or alcoholic treatment and rehabilitation program;

(i) A child who has its eighteenth 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;

(j) A person who is complying with work requirements imposed as a participant in any refugee resettlement program including but not limited to the Indochinese refugee assistance program, or the E&T program when approved by FNS. The program must demonstrate that work registration requirements are at least equivalent to food stamp requirements, activities are monitored, and that all other household members who are not exempt are registered for work;

(k) A migrant or seasonal farmworker who is under contract or similar agreement with an employer to begin employment within thirty days;

(1) The department shall verify any claim for exemption which it determines to be questionable.

(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 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 two months, whichever is earlier.

(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. Problems caused by inability of the work registrant to speak or write English could constitute good cause.

(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) Eighty percent 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 (7)(a) of this section;

(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 thirty days following 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 twenty 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 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. Households with members involved in a strike or concerted work stoppage by employees including any stoppage by reason of the expiration of a collective bargaining agreement and any concerted slowdown or interruption of operation by employees shall be ineligible to participate in the food stamp program unless the household was eligible prior to the strike. However, such households shall not receive an increased allotment as a result of a decrease in the income of the striking member or members of the household. That member's monthly income attributable to the job on which the strike occurred shall be deemed to remain the same as if he/she were still working.

(10) At the end of the two-month disqualification period, a household may apply to reestablish eligibility. Eligibility may be reestablished during the disqualification period if the reason for disqualification is corrected.

(11) A registrant who moves out of the jurisdiction of the department of employment security (DES) office with which he/she is registered must reregister at his/her new location.

(12) Persons losing exemption status due to any change of circumstance:

(a) Subject to reporting requirements shall register for work; the work registration report form shall be completed and returned within ten calendar days of the date the department hands or mails the form to the household member reporting the change. Failure to complete and return the form within that period shall result in termination of the household;

(b) Not subject to reporting requirements shall register for employment at the household's next recertification.

(13) The household shall be held liable for any over-issuances which result from erroneous information given by the household member or the household's authorized representative. [Statutory Authority: RCW 74.04.510. 81-23-044 (Order 1720), § 388-54-675, filed 11/18/81; 81-11-045 (Order 1653), § 388-54-675, filed 5/20/81; 80-15-080 (Order 1558), § 388-54-675, filed 10/20/80; 79-03-033 (Order 1374), § 388-54-675, filed 3/1/79.]

WAC 388-54-678 Job search requirement. (1)(a)

Persons required to register for work shall be subject to job search requirements in accordance with the following categories:

(i) Category I - job ready - work registrants who have no apparent substantial barriers to employment;

(ii) Category II - nonjob ready - work registrants with substantial barriers to employment, for example, medical, transportation, language or family problems;

(iii) Category III - exempt - work registrants for whom a job search is determined to be impractical, specifically including those individuals residing an unreasonable distance from the appropriate DES office or potential employers, and migrant and seasonal farmworkers away from their home base and following the work stream.

(b) Category assignment and exempt status shall be determined by DES at the time the work registration form is received from the department.

(2) Registrants subject to job search:

(a) Shall contact, as required by DES, up to twenty-four prospective employers during an eight-week, or two four-week period(s) of mandatory job search each time they are entered into the food stamp program or each twelve months, whichever occurs sooner;

(b) Shall report at a prescheduled time to the DES on the result of all job contacts twice during the eight-week period;

(c) Shall comply with DES follow-up interviews. If a household member has refused or failed without good cause to comply with the requirement of this section, the entire household shall be ineligible;

(d) Within ten days after a determination of failure to comply, shall be issued a notice of adverse action by the department;

(e) Have a right to a fair hearing to appeal a denial, reduction or termination of benefits due to a determination of nonexempt status or failure to comply.

(3) Work registrants classified as category II will not be assigned any specific job search activity.

(a) Job attached persons who have not returned to their jobs or otherwise become exempt from the job search requirement may be called in for job search categorization reassessment at the end of sixty days;

(b) Other persons may be called in for job search categorization reassessment during the six-month period.

(4) Work registrants classified as category III will not be required to fulfill job search requirements until such time as they are reclassified into an active job search category.

(5) Failure to comply with the job search requirement without good cause, shall result in household disqualification for a two-month period unless the member who caused the disqualification becomes exempt from the work requirement or is no longer a member of the household.

(6) In determining whether good cause exists for failure to comply, facts and circumstances shall be considered including information submitted by DES, the 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; problems resulting from inability of the work registrant to speak or write English could constitute good cause.

(7) Each household has a right to a fair hearing through the department to appeal a denial, reduction or termination of benefits due to a determination of nonexempt status or failure to comply with work registration and job search requirements of this section and WAC 388-54-675.

Each household may request a review of any decision made on the part of DES, such as a job search classification, prior to requesting a fair hearing through the department. [Statutory Authority: RCW 74.04.510. 81-23-044 (Order 1720), § 388-54-678, filed 11/18/81; 81-11-045 (Order 1653), § 388-54-678, filed 5/20/81]

WAC 388-54-680 Citizenship and alien status. (1)

To participate in the food stamp program an applicant shall be any person who is a resident of the United States and either:

(a) A United States citizen; or

(b) 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.

(c) 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.

(d) An alien who qualified for entry after March 17, 1980, because of persecution or fear of persecution on account of race, religion or political opinion pursuant to Sections 203(a)(7), 207, and 208 of the Immigration and Nationality Act.

(e) An alien who qualifies for conditional entry prior to March 18, 1980, pursuant to former Section 203(a)(7) of the Immigration and Nationalization Act.

(f) An alien granted asylum through an exercise of discretion by the attorney general pursuant to Section 208 of the Immigration and Nationalization Act.

(g) 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 or as a result of a grant of parole by the attorney general.

(h) An alien living within the United States for whom the attorney general has withheld deportation pursuant to Section 243 of the Immigration and Nationality Act because of the judgment of the attorney general that the alien would otherwise be subject to persecution on account of race, religion or political opinion.

(2) The CSO shall determine if household members identified as alien are eligible aliens by requiring the appropriate verification for each alien member. Aliens unable to furnish this identification are ineligible.

(3) Ineligible aliens. Aliens other than those described in this section shall not be eligible to participate in the program as a member of any household. Among those excluded are alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country. The following applies:

(a) The income and resources of an ineligible alien who would be considered a member of a household if he or she did not have ineligible alien status shall be considered in determining eligibility or level of benefits of the household in the same manner as the income and resources of a disqualified member as found in WAC 388-54-830.

(b) If verification of the eligible alien status is not provided on a timely basis, the eligibility of the remaining household members shall be determined. The income and resources of the individual whose alien status is unverified shall be treated in the same manner as a disqualified member as set forth in WAC 388-54-830 and considered available in determining the eligibility of the remaining household members. If verification of eligible alien status is subsequently received, the department shall act on the information as a reported change in household membership.

(c) When a household indicates inability or unwillingness to provide documentation of alien status for any household member, that member should be classified as an ineligible alien.

(4) Reporting illegal aliens. The department shall inform the local INS office whenever a member of a household is ineligible to receive food stamps because the member is present in the United States in violation of a known deportation order of the Immigration and Nationality Act. [Statutory Authority: RCW 74.04.510. 82-24-005 (Order 1905), § 388-54-680, filed 11/18/82; 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 where filing 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 unless an individual is a resident of a shelter for battered women and children and was a member of a household containing the person abusing him or her.

(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. 82-11-092 (Order 1814), § 388-54-685, filed 5/19/82; 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) Three thousand dollars for all households with two or more persons which include at least one member age sixty or over;

(b) One thousand five hundred dollars for all other households.

(2) The resources of a student as defined in WAC 388-54-670 determined to be ineligible 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. [Statutory Authority: RCW 74.04.510. 82-24-005 (Order 1905), § 388-54-690, filed 11/18/82; 81-01-015 (Order 1574), § 388-54-690, filed 12/8/80; 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 not separated from the home by intervening property owned by others. The home and surrounding property 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 the household intends to build or is building a permanent home, shall receive an exemption for the value of the lot and, if the home 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 funds in pension plans with interest penalties for early withdrawals, such as a Keogh or IRA as long as funds remain in the pension plan.

(4) Vehicles as provided for in WAC 388-54-717.

(5) Property annually producing income consistent with the fair market value, even if only used on a seasonal basis, except rental homes used by households for vacation purposes at some time during the year shall be counted as resources unless the property is producing annual income consistent with the fair market value.

(6) Property, such as farm land, rental homes or work related equipment, such as the tools of a tradesman or the machinery of a farmer, essential to the employment or self-employment of a household member.

(7) Resources of nonhousehold members such as roomers, live-in attendants or 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 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, security deposits on rental property or utilities, property in probate, real property and notes receivable not readily liquidated, if the household is making a good-faith effort to sell at a reasonable price and has not been sold.

Funds in a trust or transferred to a trust, and the income produced by that trust to the extent the trust is not available to the household, shall be considered inaccessible to the household if:

(a) The trustee administering the funds is either:

(i) A court, or institution, corporation or organization and is not under the direction or ownership of any household member;

(ii) The individual appointed by the court who has court imposed limitations placed on the household's use of the funds;

(iii) The funds held in irrevocable trust are either established from the household's own funds, if the 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 or established from nonhousehold funds by a nonhousehold member;

(iv) Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction or influence of a household member.

(b) If the trust arrangement will not likely cease during the certification period; and

(c) If no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period.

(11) Resources 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 submarginal land held in trust by the United States;

(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 received before January 1, 1980, as a result of Public Law 95-600, the Revenue Act of 1978;

(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.

(h) Payments received by the Confederated Tribe of the Yakima Indian Nation and from the Indian Claims Commission as designated under Public Law 94-433, Sec. 2.

(12) Installment contracts or agreements for the sale of land or other property producing income consistent with the 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.

(14) A payment or allowance made under any federal, state or local laws clearly identified as energy assistance by the legislative body authorizing the program or providing the funds. Among the federal payments excluded are energy assistance payments provided through the Department of Health and Human Services' Low-income Energy Assistance Program and the Community Services Administration's Energy Crisis Assistance and Crisis Intervention Programs.

(15) For jointly owned resources, refer to WAC 388-54-715.

(16) Where an exclusion applies because of use of a resource by or for a household member, the exclusion shall also apply when the resource is being used by or for an ineligible alien or disqualified person whose resources are being counted as part of the household's resources. For example, work-related equipment essential to the employment of an ineligible alien or disqualified person shall be excluded, as shall one burial plot per ineligible alien or disqualified household member. [Statutory Authority: RCW 74.04.510. 82-24-005 (Order 1814), § 388-54-695, filed 11/18/82; 82-11-092 (Order 1814), § 388-54-695, filed 5/19/82; 82-06-004 (Order 1767), § 388-54-695, filed 2/18/82; 81-01-015 (Order 1574), § 388-54-695, filed 12/8/80; 80-05-044 (Order 1498), § 388-54-695, filed 4/16/80; 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 388-54-715 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, 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 the resource is inaccessible to that household.

(a) If the household can demonstrate that it has access to only a portion of the resource, the value of that portion of the resource shall be counted toward the household's resource level.

(b) Resource shall be considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply.

(c) For the purpose of considering jointly owned resources, ineligible aliens or disqualified individuals residing with the household shall be considered household members.

(6) Resources shall be considered inaccessible to persons residing in shelters for battered women and children if:

(a) The resources are jointly owned by such persons and by members of their former household; and

(b) The shelter resident's access to the value of the resources is dependent on the agreement of a joint owner who still resides in the former household. [Statutory Authority: RCW 74.04.510. 82-24-005 (Order 1905), § 388-54-715, filed 11/18/82; 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 its resource value, each 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 fifty percent of the time the vehicle 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 (or ineligible alien or disqualified person whose resources are being considered available to the household), such as, but not limited to, a traveling salesperson or a migrant farmworker following the work stream;

(iv) Necessary for subsistence hunting or fishing; or

(v) Used as the household's home;

(vi) Necessary to transport a physically disabled household member (or ineligible alien or disqualified person whose resources are being considered available to the household), regardless of the purpose of such transportation (limited to one vehicle per physically disabled person). A vehicle shall be considered necessary for the transportation of a physically disabled household member if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle that makes it possible to transport the disabled person. The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member.

(b) The entire value shall be excluded if the unlicensed vehicle which is driven by Indian tribal members on those reservations not requiring vehicle licensing meets the provisions of subsection (1)(a) of this section.

(c) The 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 subsection (1) of this section shall individually be evaluated for fair market value. That portion of the value of each vehicle which exceeds four thousand five hundred dollars 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 subsection (1) of this section; 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 (including ineligible alien or disqualified household member) 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 subsection (1)(b) of this section shall be attributed toward the household's resource level.

(4) If the vehicle has a countable market value of more than four thousand five hundred dollars 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. 82-24-005 (Order 1905), § 388-54-717, filed 11/18/82; 81-01-015 (Order 1574), § 388-54-717, filed 12/8/80; 79-03-033 (Order 1374), § 388-54-717, filed 3/1/79.]

WAC 388-54-720 Resources--Transfer of property.

(1) A household member (or ineligible alien or disqualified person) 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 household members and ineligible aliens or disqualified persons 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. 82-24-005 (Order 1905), § 388-54-720, filed 11/18/82; 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 twenty 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.

(d) Payments under Title I (Vista, University Year for Action, etc.) of the Domestic Volunteer Service Act of 1973 (Public Law 93-113 Statute, as amended).

(e) Payments of earned income tax credit (EIC).

(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 twenty hours a week.

(3) The following items shall be disregarded as income:

(a) Moneys 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. 82-24-005 (Order 1905), § 388-54-725, filed 11/18/82; 81-08-021 (Order 1628), § 388-54-725, filed 3/25/81. Statutory Authority: RCW 74.08.090. 80-04-051 (Order 1496), § 388-54-725, filed 3/21/80. Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-725, filed 3/1/79.]

WAC 388-54-730 Income--Eligibility standards.

Participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet.

(1) Except as provided in subsection (2) of this section, eligibility shall be determined on the basis of gross income. The gross income eligibility standards shall be one hundred thirty percent of the office of management and budget's (OMB) nonfarm income poverty guidelines.

Effective July 1, 1982,

Gross Monthly Income Eligibility Standards Table

| Household Size | Monthly Standards |
|------------------------|-------------------|
| 1 | \$ 507 |
| 2 | 674 |
| 3 | 841 |
| 4 | 1,008 |
| 5 | 1,175 |
| 6 | 1,342 |
| 7 | 1,508 |
| 8 | 1,675 |
| Each additional person | +167 |

(2) Households which contain a member who is sixty years of age or over, or a member who receives Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act, or disability and blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act, shall be determined eligible based on net income standards.

Effective July 1, 1982,

Net Monthly Income Eligibility Standards Table

| Household Size | Maximum Allowable Net Income |
|------------------------|------------------------------|
| 1 | \$ 390 |
| 2 | 519 |
| 3 | 647 |
| 4 | 775 |
| 5 | 904 |
| 6 | 1,032 |
| 7 | 1,160 |
| 8 | 1,289 |
| 9 | 1,418 |
| 10 | 1,547 |
| Each additional member | +129 |

[Statutory Authority: RCW 74.04.510. 82-15-027 (Order 1846), § 388-54-730, filed 7/14/82; 81-23-044 (Order 1720), § 388-54-730, filed 11/18/81; 80-13-059 (Order 1543), § 388-54-730, filed 9/17/80; 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. Payments under Title I (VISTA) to volunteers shall be excluded for individuals receiving public assistance or food stamps at the time the individual joined VISTA and for 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 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) Payments by the Indian Claims Commission to the Confederated Tribe of the Yakima Indian Nation (Public Law 95-443).

(6) Any payments received by Alaskan natives under the terms of the Alaskan Native Claims Settlement Act.

(7) Payments from the special crisis intervention program.

(8) 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.

(9) Income received as compensation for services as an employee or income from self-employment by a child residing in the household, under eighteen 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. The 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 earnings or work performed by other household members, the total earnings shall be prorated equally among the working members and the child's pro rata share excluded.

(10) Income 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.

(11) All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which repayment is deferred.

(12) Education loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, OASDI educational benefits, and the like to the extent the funds 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.

(13) Money received in the form of 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.

(14) The cost of producing self-employment income.

(15) Reimbursements for past or future expenses not to exceed the actual expense or reimbursements not representing a gain or benefit to the household:

(a) The following are considered reimbursements excludable, and 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 the volunteers' work;

(iii) Reimbursement for medical or dependent care;

(iv) Reimbursements or allowances to students for specific education expenses. Portions of a general grant or scholarship must be specifically earmarked by the grantor for educational expenses such as travel or books. For purposes of this provision, "grantor" shall include any agents of the grantor responsible for the administration of the grant, and "grant or scholarship" shall include any grant used for educational purposes regardless of the fact the grantee must perform services to obtain the grant. Schools or institutions do not have the authority to designate a portion of "Pell Grant" (formerly BEOG) or work study funds. The United States Department of Education (DOE) is the only authority to earmark "Pell Grant" funds.

(b) The following are considered reimbursements not excludable, and do represent a gain or benefit.

Reimbursements for normal living expenses such as rent or mortgage, personal clothing or food eaten at home.

(16) Any gain or benefit not in money, such as in-kind benefits, including public housing, meals or clothing.

(17) Money payments not owed or payable directly to a household, but 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 the person's or organization's 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) Money legally obligated and otherwise payable to the household, but is 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.

(18) Money received and used for the care and maintenance of a third-party beneficiary 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 pro rata share or the amount actually used for the nonhousehold member's care and maintenance, whichever is less.

(19) Money received as a Department of Housing and Urban Development (HUD) refund payment pursuant to the "Underwood versus Harris" class action settlement agreement under Section 236 of the National Housing Act shall be excluded as income and shall be excluded as a resource for a two-month period. After two months, any remaining portions of the refund payment shall be considered as a resource.

(20) Clearly identified supplemental payments or allowances made under federal, state, or local laws for the purpose of offsetting increased energy costs. [Statutory Authority: RCW 74.04.510. 82-24-005 (Order 1905), § 388-54-735, filed 11/18/82; 82-11-092 (Order 1814), § 388-54-735, filed 5/19/82; 82-06-004 (Order 1767), § 388-54-735, filed 2/18/82; 81-08-021 (Order 1628), § 388-54-735, filed 3/25/81; 80-04-006 (Order 1492), § 388-54-735, filed 3/7/80; 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 388-54-737 Income—Energy allowance. (1) Effective April 1, 1982, the following energy allowance included in AFDC, continuing general assistance and refugee assistance standards is excluded as food stamp income:

| Household Size | Monthly Energy Allowance |
|----------------|--------------------------|
| 1 | \$21 |
| 2 | 27 |
| 3 | 32 |
| 4 | 39 |
| 5 | 44 |
| 6 | 50 |
| 7 | 59 |

| Household Size | Monthly Energy Allowance |
|----------------|--------------------------|
| 8 or more | 64 |

(2) An energy allowance is not included in assistance standards for households receiving:

- (a) Board and room payments;
- (b) Supplied shelter; or

(c) Supplemental security income (SSI). [Statutory Authority: RCW 74.04.510. 82-11-092 (Order 1814), § 388-54-737, filed 5/19/82.]

WAC 388-54-740 Income--Deductions. In computing net income, only the following deductions shall be allowed:

- (1) A standard deduction of eighty-five dollars per household per month.
- (2) An earned income deduction of eighteen 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 one hundred and fifteen dollars. The dependent care deduction in combination with the shelter deduction shall not exceed one hundred and fifteen dollars.

(4) Shelter costs in excess of fifty 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 one hundred and fifteen dollars.

(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.

| Persons in Household | Food Stamp Utility Standards | |
|----------------------|--------------------------------------|-----------------------------------|
| | November 1, 1981 thru April 30, 1982 | May 1, 1982 thru October 31, 1982 |
| 1 | \$136.00 | \$ 86.00 |
| 2 | 146.00 | 92.00 |
| 3 | 158.00 | 96.00 |
| 4 | 168.00 | 100.00 |
| 5 | 177.00 | 108.00 |
| 6 | 189.00 | 113.00 |
| 7 | 196.00 | 118.00 |
| 8 | 203.00 | 121.00 |
| 9 | 213.00 | 126.00 |
| 10 or more | 222.00 | 132.00 |

(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.

(5) Households which contain one or more members who are sixty years of age or older, receive supplemental security income (SSI), or receive social security disability payments under Title II of the Social Security Act shall be authorized, effective January 1, 1980:

(a) A dependent care deduction up to one hundred and fifteen dollars as specified in WAC 388-54-740(3) and

(b) An excess shelter deduction as specified in WAC 388-54-740(4) for the monthly amount that exceeds fifty percent of the household's monthly income after all applicable deductions have been made.

(6) An individual who is sixty years of age or older, or receives supplemental security income (SSI), or receives social security disability, or has received emergency SSI

from the social security administration shall be authorized effective January 1, 1980, a deduction for unreimbursable monthly medical expenses over thirty-five dollars.

(a) Allowable medical expenses are:

(i) The cost of maintaining an attendant, homemaker, home health aide, housekeeper and/or child care service. These expenses, which could be claimed either as a medical or child care expense must be considered as medical expenses;

(ii) The cost of medical insurance;

(iii) Medicare premiums related to coverage under Title XVIII of the Social Security Act;

(iv) Any cost-sharing or spend down expenses incurred by medicaid (medical only) recipients;

(v) Hospitalization or outpatient treatment, nursing care, and nursing home care including payments by the household for an individual who was a household member immediately prior to entering a hospital or licensed nursing home;

(vi) Prescription drugs and other over-the-counter medication (including insulin) when prescribed or approved by a licensed practitioner or other qualified health professional;

(vii) The cost of medical supplies, sick-room equipment (including rental) or other prescribed equipment;

(viii) Dentures, hearing aids, prosthetics, and eye glasses prescribed by an optometrist or physician skilled in eye disease;

(ix) Securing and maintaining a seeing eye dog including the cost of dog food and veterinarian bills;

(x) Reasonable cost of transportation and lodging to obtain medical treatment or services.

(b) Nonallowable expenses are:

(i) The cost of health and hospital insurance which pays in lump sum settlements or which continue mortgage or loan payments while the beneficiary is disabled;

(ii) The cost of special diets. [Statutory Authority: RCW 74.04.510, 81-23-044 (Order 1720), § 388-54-740, filed 11/18/81; 81-08-019 (Order 1625), § 388-54-740, filed 3/25/81; 81-02-005 (Order 1584), § 388-54-740, filed 12/30/80; 80-04-006 (Order 1492), § 388-54-740, filed 3/7/80; 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 388-54-750 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 twelve-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 twelve months, starting with the date the application is filed and divide this amount by twelve. This amount shall be used in successive certification periods during the next twelve 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. The cost of producing the self-employment 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 eighteen 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 fifty 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, 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;

(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 eighteen percent earned income deduction specified.

(d) Depreciation.

(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 twelve 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. 82-24-005 (Order 1905), § 388-54-750, filed 11/18/82; 81-23-044 (Order 1720), § 388-54-750, filed 11/18/81; 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 388-54-760 Certification periods--Duration.

(1) Based upon a thirty-day month, the value of the allotment issued to an eligible household for the initial month shall be prorated from the date of application through the end of the month.

(2) 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, except:

(a) Food stamp households where all members are subject to mandatory monthly reporting (MMR) may be certified for up to twelve months.

(b) Households whose assistance is authorized for less than six months may be assigned certification periods to coincide with the assistance authorization.

(3) 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 three months or less shall, at the time of certification, have this certification period increased by one month, if the certification process is completed after the fifteenth day of month of application and the household's circumstances warrant the longer certification period.

(ii) A household with one or more members on strike shall be assigned a certification period of no more than one month if the household is certified before the fifteenth 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 (3) (a), (b), and (c) of this section. [Statutory Authority: RCW 74.04.510. 83-01-055 (Order 1922), § 388-54-760, filed 12/15/82; 81-23-044 (Order 1720), § 388-54-760, filed 11/18/81; 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 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, 81-23-044 (Order 1720), § 388-54-765, filed 11/18/81; 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--Households responsibility to report. (1) Certified households are required to report the following changes in circumstances:

(a) Changes in gross monthly income of more than twenty-five dollars and source of income, 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 one thousand five hundred dollars. (See WAC 388-54-715(1)(a)).

(f) A change of more than twenty-five dollars for deductible medical expense.

(2) Certified households shall report changes within ten calendar days of the date the change becomes known to the household. Reporting may be by telephone, mail or personal contact.

(3) Applying households shall report changes related to food stamp eligibility and benefits at the certification interview. Changes, as provided in subsection (1) of this section, which occur after the interview but before the date of the notice of eligibility, shall be reported by the household within ten days of the date of notice.

(4) 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.

(5) Individuals shall not be disqualified for failing to report a change, unless the individual is disqualified in accordance with the fraud disqualification procedures.

(6) 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) of this section.

(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 within ten days will result in delay of increased benefits.

(f) A new change report form when a change has been reported. [Statutory Authority: RCW 74.04.510, 82-24-005 (Order 1905), § 388-54-770, filed 11/18/82; 81-23-044 (Order 1720), § 388-54-770, filed 11/18/81;

81-11-045 (Order 1653), § 388-54-770, filed 5/20/81; 80-13-058 (Order 1545), § 388-54-770, filed 9/17/80; 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 ten days after the change was reported to the department, provided that the household has furnished the required verification within ten days. The time frames shall run from the date the change was reported, not from the date of verification. If verification is not provided within ten days, the increase in benefits shall be effective not later than the first allotment issued ten days after the verification is provided.

(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 fifty dollars or more in the household's gross monthly income, the department shall:

(a) Make the change effective not later than the first allotment issued ten 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 ten 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 ten 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) of this section,

restoration of lost benefits shall be provided to the client. [Statutory Authority: RCW 74.04.510. 81-11-045 (Order 1653), § 388-54-775, filed 5/20/81; 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 388-54-785 Issuance--Monthly allotments. (1) Based upon a thirty-day month, the department shall issue to households making initial application a coupon allotment valued in direct proportion to the number of days remaining from the date of application to the end of the initial month of eligibility.

(2) The department shall determine the value of the allotment a household receives (taking into consideration the requirement within subsection (1) of this section to pro rate the initial month's allotment) by subtracting thirty percent of the household's net monthly income from the thrifty food plan for that household size.

| Household Size | Thrifty Food Plan Amounts |
|------------------------|---------------------------|
| 1 | \$ 70 |
| 2 | 128 |
| 3 | 183 |
| 4 | 233 |
| 5 | 277 |
| 6 | 332 |
| 7 | 367 |
| 8 | 419 |
| 9 | 472 |
| 10 | 525 |
| Each additional member | +53 |

(3) All one and two person households shall receive a minimum monthly allotment of ten dollars except in the initial benefit month wherein a household may receive a pro rata allotment of less than ten dollars. [Statutory Authority: RCW 74.04.510. 81-23-044 (Order 1720), § 388-54-785, filed 11/18/81; 81-06-059 (Order 1620), § 388-54-785, filed 3/4/81; 80-13-059 (Order 1543), § 388-54-785, filed 9/17/80; 80-04-006 (Order 1492), § 388-54-785, filed 3/7/80; 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 shall 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 prior to the expiration date to the coupon issuer, or;

(b) A direct coupon mailout system.

(2) For ATP's issued after the twenty-fifth of the month, the department shall either:

(a) Issue an ATP which shall not expire for a period of not less than twenty calendar days or until the end of the following month; or

(b) Issue an ATP valid only until the end of the month and issue a valid replacement ATP if the household is unable to transact the ATP before the expiration

date. The household shall be informed of this possibility at the time the first ATP is issued.

(3) 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 one dollar 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 bearing 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 one dollar is required in a coupon transaction, the household shall receive the change in cash not to exceed ninety-nine 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.

(4) Where the direct mail system is used to issue coupons:

(a) After two reported mail losses by a household within the previous five months, the department shall utilize other means to deliver program benefits to the household.

(b) To minimize mail theft exposure, direct mail issuances shall be staggered through the tenth of the month, and may be staggered through the fifteenth day provided that each household will likely receive coupons on the same date every month.

(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) 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, 82-06-002 (Order 1765), § 388-54-790, filed 2/18/82; 81-23-044 (Order 1720), § 388-54-790, filed 11/18/81; 79-03-033 (Order 1374), § 388-54-790, filed 3/1/79.]

WAC 388-54-800 Issuance--Replacement allotments. (1) Effective January 1, 1982, households may request a replacement for that portion of food coupons received, but subsequently destroyed by a household disaster, such as fire or flood and not to exceed one month food stamp allotment.

The following applies:

(a) The household shall report the destruction to the department within ten days of the incident or within the period of intended use, whichever is earlier.

(b) The household shall sign an affidavit attesting to the destruction.

(c) The disaster shall be verified through either a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or through a home visit.

(d) Replacement of coupons reported as destroyed subsequent to receipt shall be made only once in a six-month period. The department shall deny the request for replacement if in the previous five-month period the household has been issued a replacement for either coupons or an ATP reported as destroyed subsequent to receipt.

(e) The department shall issue replacement coupons, if warranted, within ten days of request for replacement.

(f) The department shall not issue a replacement of coupons if lost or misplaced after receipt.

(g) In a FNS declared disaster the household shall not receive both the disaster allotment and a replacement allotment.

(2) Within the period of intended use households may request a replacement for an ATP received but subsequently destroyed in a household disaster, such as a fire or flood or stolen. The following applies:

(a) The household shall report the theft or destruction to the department within ten days of the incident or within the period of the ATP's intended use, whichever is earlier.

(b) The household shall sign an affidavit with the department attesting to the theft or destruction.

(c) The department shall verify the disaster or theft through either a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or through a home visit.

(d) Replacement of an ATP reported stolen subsequent to receipt shall be made only once in a six-month period. Replacement of an ATP or coupons reported as destroyed subsequent to receipt shall be made only once

in a six-month period. If, in the previous five months, the household has been issued a replacement for an ATP reported stolen subsequent to receipt, then a request for a replacement of a stolen ATP shall be denied. If, in the previous five months, the household has been issued a replacement of an ATP or coupons reported as destroyed then the request for a replacement of a destroyed ATP shall be denied.

(e) The department shall issue a replacement, if warranted, within ten days of receipt of requests.

(f) Replacement of the ATP shall be denied or delayed when documentation exists substantiating the request for replacement is fraudulent. The household shall be informed of the household's right to a fair hearing to contest the denial or delay of the replacement of the ATP. The denial or delay of the replacement shall remain in effect pending the hearing decision.

(g) The department shall not issue a replacement ATP or coupons if lost or misplaced after receipt.

(3) The department shall issue a replacement ATP stolen or lost in the mail prior to receipt when reported in the period of the ATP's intended use and the household has not been issued two replacements in the previous five months. The following applies:

(a) The department shall determine if the ATP was valid when issued, actually mailed, and if sufficient time has elapsed for delivery.

(b) The household shall sign an affidavit attesting to the nonreceipt of the ATP.

(c) The department shall issue a replacement ATP no more than ten days after report of nondelivery has been received.

(d) The department shall deny or delay the ATP replacement if documentation indicates the request is fraudulent. The household shall be informed of the right to a fair hearing. The denial or delay of the ATP replacement remains in effect pending the hearing decision.

(e) The department shall utilize other delivery methods after two requests are received for replacement of an original or replacement ATP in a six-month period.

(4) The department shall issue replacement coupons only if the coupons are reported stolen from the mail or lost in the mail prior to receipt in the period of intended use and the household has not been issued two replacements in the previous five months. The following applies:

(a) The department shall determine if the coupons were validly issued, actually mailed, and if sufficient time had elapsed for delivery.

(b) The household shall sign an affidavit attesting to the nondelivery.

(c) The department shall issue replacement coupons no more than ten days after the report of nondelivery has been received.

(d) The department shall utilize other delivery methods after two reports of nondelivery of either full or partial allotments in a six month period.

(e) If delivery of a partial allotment is reported, the department shall determine the value of coupons and corroborated by evidence that the coupon loss was due to damage in the mail before delivery or a discrepancy in

the issuance unit's inventory. If receipt of a partial allotment is due to an error in issuance unit, the remainder of the allotment shall be issued regardless of the number of times the household has received replacements in the past five months.

(5) The department shall replace food purchased with food stamps when destroyed in a disaster affecting a participating household, not to exceed one month's food stamp allotment when reported within ten days of the loss. The following applies:

(a) The department shall verify the disaster through a collateral contact, a community organization such as the fire department, Red Cross, or a home visit.

(b) The department shall issue a replacement allotment no more than ten days after report of the loss.

(c) The household shall not receive both a FNS declared disaster allotment and a replacement allotment under this provision. [Statutory Authority: RCW 74.04-.510, 82-06-002 (Order 1765), § 388-54-800, filed 2/18/82; 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 twelve 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 twelve-month limitation does not apply to benefits which are to be restored when:

(a) A fraud disqualification penalty is reversed;

(b) Amounts deducted from SSI benefits to repay SSI overpayments, since January 1976, were counted as food stamp income (households may apply for this benefit until 5-1-80);

(c) The household, previously determined by the department to be entitled to benefits as a result of the household winning a fair hearing or an error being made in determining the household's eligibility, was denied restoration of benefits because the household was not currently participating.

(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 ninety days of the date the household is notified of its entitlement to restoration of lost benefits, as specified in WAC 388-54-805(3)(c). Households previously notified they were due benefits

but who could not receive them because they were not currently participating may request a fair hearing ninety days from the date the CSO makes a decision on the request to restore 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 ninety 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 twelve months prior to the date the department was initially informed of the household's possible entitlement shall not be restored unless the household was previously notified they were due benefits but could not receive them because they were not currently participating. In these cases, the twelve-month limitation does not apply.

(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 allotment 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.

(11) Households described in WAC 388-54-805(3)(c) shall provide the CSO with a copy of the notice they received if it was within the past three years. If it has been more than three years, the household may complete an affidavit stating they received notice that

they were due an amount of stamps or were overcharged for the stamps they received. The affidavit shall also include an explanation by the household of their entitlement. The affidavit is not necessary if the amount due can be verified through case records or accounts payable ledgers. [Statutory Authority: RCW 74.04.510. 81-23-044 (Order 1720), § 388-54-805, filed 11/18/81; 80-04-006 (Order 1492), § 388-54-805, filed 3/7/80; 79-03-033 (Order 1374), § 388-54-805, 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;

(d) A certification period expires and the household has made a timely application for a new certification period pending receipt of the fair hearing decision. The department shall determine eligibility on the basis of all eligibility requirements without regard to the matter at issue in the fair hearing.

(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. Once continued or reinstated, benefits shall not be reduced or terminated prior to receipt of the hearing decisions unless:

(a) The certification period expires; the household may reapply and may be determined eligible for a new certification period with a benefit amount as determined by the department;

(b) The hearing examiner makes a preliminary determination in writing and at the hearing that it is a matter of policy;

(c) 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

(d) 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. 82-06-051 (Order 1773), § 388-54-820, filed 3/3/82; 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 388-54-821 Complaints. (1) Complaints received which cannot be categorized as discrimination complaints or resolved through the fair hearing process shall be acknowledged, resolved and recorded.

(2) Information concerning the complaints system and how to file shall be made available to food stamp participants and other interested parties.

(3) Records of complaints shall be available for annual review. [Statutory Authority: RCW 74.04.510. 81-17-023 (Order 1688), § 388-54-821, filed 8/12/81.]

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 twenty-four months as determined by the court. The department shall disqualify only the individual and not the entire household. If the court fails to address or specify a disqualification period for the fraudulent act, the department shall impose a six month disqualification period unless it is contrary to the court order.

(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 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 thirty-five dollars or if the value of the ineligible items that have been purchased with food stamps is under thirty-five dollars. The burden of proving fraud is on the department. The department may initiate an administrative fraud hearing regardless of the current eligibility of the individual. It 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 ninety 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 thirty 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 thirty 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 thirty-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.

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. 81-23-044 (Order 1720), § 388-54-826, filed 11/18/81; 80-10-043 (Order 1529), § 388-54-826, filed 8/6/80; 79-10-084 (Order 1435), § 388-54-826, filed 9/21/79.]

WAC 388-54-830 Treatment of income and resources of disqualified members. Individual household members may be disqualified for fraud, or for failure to obtain or refusal to provide an SSN or for being an ineligible alien. During the period of time a household member is ineligible, the eligibility and benefit level of any remaining household members shall be determined as follows:

(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 eighteen percent 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) When 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 within the certification period because one of its members has been disqualified for fraud, the department shall notify the remaining members of the revised eligibility and benefits levels at the same time the disqualified member is notified of the disqualification. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits.

(b) SSN disqualification. If a household member's benefits are reduced or terminated within the certification period because one or more of its members failed to meet the SSN requirement, the department shall issue a notice of adverse action which includes:

(i) Informing the household that the individual without an SSN is being disqualified;

(ii) The reason for the disqualification;

(iii) The eligibility and benefit level of the remaining members; and

(iv) The actions the household must take to end the disqualification.

(c) Ineligible aliens. If a household's benefits are reduced or terminated within the certification period because one or more of its members is being disqualified as an ineligible alien, the department shall issue a notice of adverse action which includes:

(i) Informing the household that the individual is being disqualified;

(ii) The reason for the disqualification;

(iii) The eligibility and benefit level of the remaining members; and

(iv) The actions the household must take to end the disqualification, if applicable. [Statutory Authority: RCW 74.04.510. 82-24-005 (Order 1905), § 388-54-830, filed 11/18/82; 81-23-044 (Order 1720), § 388-54-830, filed 11/18/81; 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 twelve 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 twelve 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 ten 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 first of the following 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 thirty-five dollars.

(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) How the household may pay the claim;

(iii) The household's right to a fair hearing.

(d) If the household does not respond to the first demand letter, additional letters shall be sent at thirty-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 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, 82-24-005 (Order 1905), § 388-54-835, filed 11/18/82; 80-04-006 (Order 1492), § 388-54-835, filed 3/7/80; 79-03-033 (Order 1374), § 388-54-835, filed 3/1/79.]

WAC 388-54-840 Claims against households--Fraud. (1) Prior to the determination of fraud, the claim against the household shall be handled as a nonfraud claim. A fraud claim shall be handled as such only if any of the following circumstances exist:

(a) The overpayment was established as a fraudulent claim prior to March 1, 1979;

(b) The household member was found guilty of fraud by a court of appropriate jurisdiction, regardless of the date of establishing the claim in question;

(c) The overpayment was established on or after March 1, 1979, and an administrative fraud hearing found a household member to have fraudulently received benefits.

(2) The amount of the fraud claim shall be calculated back to the month the fraudulent act occurred.

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) Individuals found to have committed fraud on or after July 1, 1979, shall be disqualified as follows:

(a) Administrative hearing - individuals shall be ineligible to participate in the program for three months;

(b) Court determinations of fraud, criminal/civil - individuals shall be ineligible to participate in the program for not less than six months and not more than twenty-four months as ordered by the court;

(c) The department shall impose a six month disqualification period when the court has not specified a disqualification period unless it is contrary to the court order;

(d) Only the individual(s) found to have committed fraud shall be disqualified, not the entire household.

(4) 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 specifies the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, a repayment agreement, how the household may pay the claim and the household member's right to a fair hearing. Cases established as fraud prior to July 1, 1979, shall not be disqualified for lack of repayment.

(i) Because the time period covered may be different in fraud and nonfraud claims, a fraud demand letter shall be sent even though a nonfraud letter was previously sent.

(ii) The repayment agreement shall include the repayment requirements, the types and terms of the restitution schedule, the date restitution must begin in order

to avoid continuing the period of disqualification, and the right of the household to negotiate the repayment schedule should the household's economic situation change.

(b) For noncourt cases established prior to July 1, 1979, if the household does not respond to the first demand letter, additional letters shall be sent at thirty-day intervals until the household agrees to pay, or the claim can be suspended or terminated.

(c) For all court fraud determinations and cases found to be fraudulent by administrative fraud hearings since July 1, 1979, if the household does not respond to the demand letter, the household member found to have committed fraud shall continue to be disqualified until the signed agreement to repay is returned;

(d) If the repayment agreement is signed and returned but the household fails to adhere to the agreement, the mandatory allotment reduction method of repayment shall be utilized.

(5) The department shall suspend collection action if any 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

(6) After the claim has been held in suspense for three years, it shall be terminated.

(7) 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 three 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 three years.

(c) A household member found to have committed fraud through an administrative hearing or a court proceeding as set forth in subsection (1) of this section may elect to have the monthly allotment reduced by the individual's pro rata share or twenty-five percent of the total allotment whichever is less. A lesser amount can be deducted if it results in equal increments or if the full amount can be recovered within a year. If such a household member fails to make its regular payments, the household shall be sent a notice that the overdue payments must be made, or the repayment schedule renegotiated, or if no contact is made by the household the department may transfer to mandatory allotment reduction without prior notice of adverse action.

(d) If the household member found to have committed fraud has not returned a completed repayment agreement, the department shall send a subsequent notice one

month prior to the end of the specified period of disqualification advising that he/she shall remain disqualified until such time as an agreement to repay is executed (effective June 1, 1980).

(e) If the household member fails to make a payment in accordance with the established cash repayment schedule, the department shall issue a notice explaining that no payment or an insufficient payment was received. The notice shall indicate that unless the overdue payments are made or the individual contacts the department to discuss renegotiating the payment schedule, the department may invoke allotment reduction without a notice of adverse action (effective June 1, 1980).

(f) If the household member responds to the notice, the department shall: (i) Permit the individual to make the overdue payments and continue payments based on the previous schedule if he/she wishes; or (ii) renegotiate a new payment schedule and execute a new written agreement letter if the individual requests it.

(8) The department shall not deny, terminate or reduce a household's benefits for failure to repay a claim, to agree to a repayment schedule or to make the agreed upon payment; except for the allotment reduction when repayment of a claim is beginning after the period of disqualification and the household member found to have committed fraud does not make agreed upon cash repayments. [Statutory Authority: RCW 74.04.510. 81-22-083 (Order 1714), § 388-54-840, filed 11/4/81; 80-10-043 (Order 1529), § 388-54-840, filed 8/6/80; 79-03-033 (Order 1374), § 388-54-840, filed 3/1/79.]

Chapter 388-55 WAC REFUGEE ASSISTANCE

WAC

388-55-010 Refugee assistance.

WAC 388-55-010 Refugee assistance. (1) Assistance shall be granted to refugees within the provisions of Public Law 96-212, the Refugee Assistance Program.

(2) For the purpose of the refugee assistance program, a refugee is defined as a person who has fled from and cannot return to his or her 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) A person from Cambodia, Laos, or Vietnam receiving Indochinese refugee assistance because he or she was:

(i) A person having parole status as indicated by an INS (Immigration and Naturalization Service) Form I-94.

(ii) A person having voluntary departure status as indicated by Form I-94.

(iii) A person having conditional entry status as indicated by Form I-94.

(iv) A person admitted to the United States with permanent resident status on or after April 8, 1975 (the date 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.

(v) A person having permanent resident status as a result of adjustment of status under P.L. 95-145 as indicated by Form I-151 or I-551.

(b) A person from Cuba receiving assistance or services under the Cuban phase down program, who entered the United States on or after October 1, 1978. Such persons must have:

(i) A registration card issued by the United States Cuban Refugee Center in Miami on or after October 1, 1978, and

(ii) INS documentation sufficient to establish the person entered the United States on or after October 1, 1978, or verification with the United States Cuban Refugee Center of the refugee's date of entry.

(c) A person from Cambodia, Laos, or Vietnam having parole status.

(i) Such persons must have a Form I-94 indicating the person has been paroled under Section 212(d)(5) of the Immigration and Nationality Act (INA).

(ii) If the Form I-94 was issued on or after June 1, 1980, the form must clearly indicate the person has been paroled as a refugee or asylee.

(d) A person from Cuba having been paroled as a refugee or asylee and entering the United States on or after October 1, 1978.

(i) Such persons must have a Form I-94 indicating the person has been paroled under Section 212(d)(5) of the INA.

(ii) If the Form I-94 was issued on or after April 21, 1980, the form must clearly indicate the person has been paroled as a refugee or asylee.

(e) An individual from any country other than Cambodia, Laos, Vietnam, or Cuba having parole status as a refugee or asylee as evidenced by a Form I-94 indicating the person has been paroled under Section 212(d)(5) of the INA as a refugee or asylee.

(f) An individual admitted from any country as a conditional entrant under Section 203(a)(7) of the INA. This must be indicated on the Form I-94.

(g) An individual from any country admitted as a refugee under Section 207 of the INA. This must be indicated on Form I-94.

(h) An individual from any country having been granted asylum under Section 208 of the INA. This must be indicated on Form I-94.

(i) A person from any country previously holding one of the statuses identified in this section whose status has been changed to permanent resident alien.

(3) Refugee assistance cases eligible for the AFDC and/or medicaid programs shall be transferred to such programs retroactively effective 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 the 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 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 refugee assistance.

(7) Except as specified in subsection (8) of this section, assistance to all types of refugee cases, regardless of family composition, shall be provided at the AFDC monthly standards; income and resources will be treated according to AFDC standards. Resources not available, including property remaining in Vietnam, Laos or Cambodia, shall be considered in determining eligibility for financial assistance.

(8) Applicants for and recipients of refugee assistance shall not be eligible for the thirty dollar plus one-third of the remainder exemption from earned income.

(9) The refugee family unit including United States citizen's children, by virtue of being born in this country, shall be treated as a single assistance unit under the refugee assistance program in accordance with the provisions of WAC 388-24-050.

(10) (a) All applicants for and recipients of a financial grant under the refugee assistance program and each member of the family group of which the applicants and recipients are a part are required to register for employment with the state employment service unless the individual is:

(i) An individual under sixteen, or under age nineteen and attending secondary school or an equivalent level of vocational or technical training full time;

(ii) A person 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 caring for a child under the age of six;

(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) Inability to communicate in English does not justify exemption from registration or acceptance of employment.

(11) 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, determined appropriate for the refugee by the CSO shall also result in the following actions:

(a) The CSO will provide counseling within seven days of the individual's refusal to participate. The counseling is intended to provide the refugee with an understanding of the implications of his or her 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 CSO.

(b) An employable adult refugee applicant refusing a work or training opportunity or referral without good cause, as stated in this section within thirty days prior to application shall be ineligible for refugee assistance for thirty days from the date of the refusal. The dependent family of such an ineligible applicant may apply for and receive assistance if otherwise eligible.

(c) 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 or her 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, the grant shall be reduced by the amount included on behalf of the 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 action is taken according to subsection (11)(c)(i) or (ii) of this section, provided the provisions for safeguarding information in chapter 388-320 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.

(12) An employable adult refugee shall be exempt from the work registration requirements in subsections (10) and (11) of this section for a period of sixty days after the person's date of entry into the United States.

(13) A refugee of any age otherwise eligible shall not be denied cash assistance while enrolled and participating in a CSO approved employability training program intended to have a definite short-term (less than one year) employment objective.

(14)(a) With the exception of the thirty dollar and one-third exemption, 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.

(15) All refugee recipients sixty-five years of age or older, or 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.

(16)(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. Subsection (14)(a) of this section is applicable in determining the amount of participation in medical costs for refugee recipients.

(c) The refugee recipient becoming 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 or 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.

(17) Refugee recipients shall have continuing eligibility for financial and medical assistance redetermined at least once in every six months of continuous receipt of assistance.

(18) Persons meeting the criteria in this section shall be eligible for refugee assistance only during the eighteen-month period beginning in the first month the individual entered the United States.

(19) The rules in this section shall be effective April 1, 1982. [Statutory Authority: RCW 42.20A.550 [43-20A.550]. 82-10-061 (Order 1800), § 388-55-010, filed 5/5/82. Statutory Authority: RCW 43.20A.550. 81-08-061 (Order 1630), § 388-55-010, filed 4/1/81; 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

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|------------|---|
| WAC | |
| 388-57-015 | Utilization of employment security department DES--Registration. |
| 388-57-020 | Unemployment compensation status--Verification. |
| 388-57-025 | Repealed. |
| 388-57-030 | Repealed. |
| 388-57-032 | Employment and training (E&T) program. |
| 388-57-036 | Employment and training (E&T)--Definitions. |
| 388-57-056 | Refusal to cooperate in appraisal prior to certification. |
| 388-57-057 | Work incentive program--Certification of AFDC recipient to state employment service. |
| 388-57-061 | Refusal of training or employment under WIN/E&T without good cause. |
| 388-57-062 | Repealed. |
| 388-57-064 | Refusal of training or employment or reduction of earnings under WIN without good cause--Deregistration sanction and reacceptance to WIN. |
| 388-57-090 | Refusal of training or employment under WIN/employment and training without good cause--Fair hearings. |
| 388-57-095 | Intensive applicant employment services--Departmental authority. |
| 388-57-097 | Community work experience program (CWEP). |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

| | |
|------------|--|
| 388-57-025 | Acceptance of full or part-time employment--Effect of refusal on eligibility. [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.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
| 388-57-030 | Acceptance of training for employment--Effect of refusal on eligibility. [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.] Repealed by 81-14-063 (Order 1670), filed 7/1/81. Statutory Authority: RCW 74.08.090. |
| 388-57-062 | Refusal of training or employment under WIN without good cause--Counseling period. [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.] Repealed by 82-01-041 (Order 1733), filed 12/16/81. Statutory Authority: RCW 74.23.120. |

WAC 388-57-015 Utilization of employment security department DES--Registration. An AFDC mandatory registrant, 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. [Statutory Authority: RCW 74.08.090. 81-10-010 (Order 1642), § 388-57-015, filed 4/27/81. 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 [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 who becomes potentially eligible for unemployment compensation is required to comply with the provisions of subsection (1) of this section within thirty days. [Statutory Authority: RCW 74.08.090. 81-10-010 (Order 1642), § 388-57-020, filed 4/27/81. 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, § 388-57-020, 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.]

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 388-57-025 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-030 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-032 Employment and training (E&T) program. (1) The employment and training (E&T) program is a department of social and health services designated program which is complimentary to and consistent with the work incentive (WIN) program as described in this chapter. It is designed to provide services to employable recipients of AFDC who are not receiving work incentive (WIN) program services.

(2) The WIN rules, including all responsibilities, exemptions, sanctions and protections in chapter 388-57 WAC apply to the employment and training (E&T) program except as outlined in WAC 388-57-032 and 388-57-036.

(3) The following services will be available through the E&T program to recipients in both WIN and non-WIN localities:

- (a) Placement in employment;

(b) Referral to other programs offering public service employment (PSE) or training;

(c) Self-support services.

(4) In WIN areas, recipients of AFDC are required to satisfy WIN program requirements prior to being considered for E&T. Persons certified to WIN may be suspended to E&T. [Statutory Authority: RCW 74.08.090. 81-10-010 (Order 1642), § 388-57-032, filed 4/27/81; 80-02-023 (Order 1472), § 388-57-032, filed 1/9/80.]

WAC 388-57-036 Employment and training (E&T)--Definitions. The terms in chapter 388-57 WAC apply in the E&T program except:

(1) "Certification" means acceptance for E&T services of AFDC recipients in non-WIN areas. The form is retained by the CSO rather than being sent to DES;

(2) "Registrant" means a recipient who is registered for E&T services;

(3) "Self-support services" means counseling, child care, transportation, miscellaneous expense, and medical payments during the certification period to assist the recipient in obtaining employment and training (E&T). These departmental payments are exempt;

(4) "DES-DSHS joint case responsibility" is not applicable in the E&T program;

(5) The thirty dollar incentive payment is not applicable in the E&T program;

(6) Protective or vendor payments shall not be imposed upon noncooperating AFDC recipients not certified to WIN.

(7) Persons employed at least thirty hours per week are exempt from registration for E&T. [Statutory Authority: RCW 74.23.120. 82-01-041 (Order 1733), § 388-57-036, filed 12/16/81. Statutory Authority: RCW 74.08.090. 81-19-110 (Order 1700), § 388-57-036, filed 9/22/81; 81-10-010 (Order 1642), § 388-57-036, filed 4/27/81; 80-02-023 (Order 1472), § 388-57-036, filed 1/9/80.]

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.

Any de-registered mandatory registrant 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 74.08.090. 81-10-010 (Order 1642), § 388-57-056, filed 4/27/81. 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. Effective May 1, 1982, WIN day care services for children shall not be provided to registrants in paid employment.

(3) 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 74.23.120. 82-13-081 (Order 1830), § 388-57-057, filed 6/21/82. Statutory Authority: RCW 74.08.090. 81-10-010 (Order 1642), § 388-57-057, filed 4/27/81. 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, a mandatory registrant 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 or she is able to engage:

(a) When such individual is a caretaker relative, his or 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;

(b) When such individual is the only dependent child in the family, assistance for the family will be terminated; and

(c) When such individual is one of several dependent children in the family, assistance for such child will be terminated and his or her needs will not be taken into account in determining the family's need for assistance.

(3) In the event an individual certified to the WIN/E&T program refuses to accept employment offered to him or 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.

(4) 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 74.23.120. 82-01-041 (Order 1733), § 388-57-061, filed 12/16/81. Statutory Authority: RCW 74.08.090. 81-10-010 (Order 1642), § 388-57-061, filed 4/27/81. 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-064 Refusal of training or employment or reduction of earnings under WIN without good cause--Deregistration sanction and reacceptance to WIN. (1) A mandatory WIN registrant who has been found to have failed or refused without good cause to participate or has terminated employment, or has refused to accept employment or has reduced earnings shall be sanctioned as follows:

(a) For the first occurrence, the individual shall be deregistered and have his or her needs removed from the grant for three payment months beginning the first day of the month in which the sanctioned individual's needs are removed;

(b) For the second and subsequent occurrences, the individual shall be deregistered and have his or her needs removed from the grant for six payment months beginning the first day of the month in which the sanctioned individual's needs are removed.

(2) A voluntary registrant who has failed or refused to participate without good cause shall be sanctioned by deregistration from WIN without removing the individual's needs from the grant as follows:

(a) For the first occurrence, the individual shall be deregistered for three payment months beginning the first day of the month such action can be taken;

(b) For the second and subsequent occurrences, the individual shall be deregistered for six payment months beginning the first day of the month such action can be taken.

(3) Implementation of this sanction is not governed by effective date rules in chapter 388-33 WAC.

(4) Assistance unit payments shall be determined in accordance with WAC 388-57-061.

(5) When a defacto failure or refusal to participate in WIN or termination of employment or refusal to accept employment or reduction in earnings is verified, an appointment for a face-to-face interview with WIN staff shall be made to determine if good cause exists for such act or pattern of behavior. The appointment notice shall explain the reasons for the appointment and the consequences of failure to keep the appointment.

(6) Conciliation efforts to resolve disputes between the WIN staff and the registrant shall begin as soon as possible, but no later than ten days following the date of

refusal or failure to participate pursuant to WAC 388-57-064(1).

(a) The period of conciliation may continue for a period of time not to exceed thirty days.

(b) Either the WIN staff or the registrant, upon written notice, may terminate the period sooner when either believes the dispute cannot be resolved by conciliation.

(c) Within two working days after termination of the conciliation period without resolution of the matter, the WIN staff shall issue a "notice of intended deregistration" to the registrant.

(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 or 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 labor dispute; or

(f) Adequate child care is not available to the single parent AFDC household. [Statutory Authority: RCW 74.22.110 and 74.23.120. 83-01-057 (Order 1924), § 388-57-064, filed 12/15/82. Statutory Authority: RCW 74.22.110. 82-05-005 (Order 1762), § 388-57-064, filed 2/4/82. Statutory Authority: RCW 74.23.120. 82-01-041 (Order 1733), § 388-57-064, filed 12/16/81. 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.]

WAC 388-57-090 Refusal of training or employment under WIN/employment and training without good cause--Fair hearings. (1) An AFDC applicant who claims to be exempt from WIN/employment and training (E&T) registration as provided in WAC 388-24-107 shall be considered exempt until his/her status is finally determined.

(2) An individual who is dissatisfied with the determination that he/she must register for the work incentive (WIN) program or the employment and training (E&T) program as provided in WAC 388-24-107 may request a fair hearing.

(3)(a) DES has responsibility for hearing and deciding disputes over their decisions involving refusal or failure without good cause on the part of a registrant or participant to accept employment or to participate in the work incentive (WIN) program or the employment and training (E&T) program upon suspension from the WIN program.

(b) DSHS has responsibility for hearing and deciding disputes over their decisions involving registrant/participant refusal or failure to accept employment or to participate in the employment and training (E&T) program without good cause only when

he/she is not certified to the WIN program. Refer to WAC 388-57-061. [Statutory Authority: RCW 74.08-.090, 81-10-010 (Order 1642), § 388-57-090, filed 4/27/81; 80-02-023 (Order 1472), § 388-57-090, filed 1/9/80; Order 1118, § 388-57-090, filed 5/13/76; Order 832, § 388-57-090, filed 7/26/73; Order 750, § 388-57-090, filed 12/7/72; Order 544, § 388-57-090, filed 3/31/71, effective 5/1/71; Order 340, § 388-57-090, filed 2/14/69.]

WAC 388-57-095 Intensive applicant employment services—Departmental authority. The intensive applicant employment services demonstration project is authorized under specific approval of the secretary of the Department of Health and Human Services through Section 1115, Social Security Act, Grant Number 11-P-98083-10-01 and 11-P-98083-10-02.

(1) This project has the following objectives:

(a) To assist applicants for aid to families with dependent children (AFDC) to secure unsubsidized employment prior to authorization of the assistance grant;

(b) To provide certain applicants with preschool children age three years or over applying for AFDC and having previously been excluded from employment programs to participate in such programs;

(c) To provide AFDC applicants with sufficient social and financial supports during the application period to enable the applicants to conduct intensive job search;

(d) To determine the extent AFDC applicants will secure employment if required to participate in a job search program not to exceed thirty days compared to applicants/recipients required to participate in a job search program extending beyond the application period to a maximum of eight weeks;

(e) To determine the extent young applicants with small children can be assisted to become self-supporting as compared to applicants with school-age children.

(2) Applicants for AFDC residing in an area subject to the intensive applicant employment services demonstration project shall participate in this project to engage in job search unless exempted under the following conditions:

(a) A child under age sixteen or attending school full time;

(b) A person is ill, incapacitated, or sixty-five years of age or over;

(c) A person is so remote from a CSO that his or her effective participation is precluded;

(d) A person whose presence in the home is required because of illness or incapacity;

(e) Applicants with children under age three years;

(f) Persons working in unsubsidized employment at least thirty hours per week; and

(g) Undue hardship exists and the client is not eligible for CEAP.

(3) If an applicant fails or refuses without good cause to participate in the intensive applicant employment services demonstration project, his or her needs shall not be taken into account in determining the family's need for assistance and grant amount. Good cause provisions are listed in WAC 388-57-064(7). This sanction shall be

consistent with the WIN sanction period in WAC 388-57-064. An applicant adversely affected shall have the opportunity for administrative review. [Statutory Authority: RCW 74.22.110 and 74.23.120. 83-01-057 (Order 1924), § 388-57-095, filed 12/15/82. Statutory Authority: RCW 74.08.090. 82-07-026 (Order 1779), § 388-57-095, filed 3/11/82.]

WAC 388-57-097 Community work experience program (CWEP). The community work experience program (CWEP) is authorized under the approval of the secretary of the department of social and health services as an optional state program authorized by the 1981 Omnibus Reconciliation Act.

(1) The pilot program has the following objectives:

(a) To provide work experience to recipients of AFDC unable to secure employment through other employment programs; and

(b) To determine the extent work experience will assist individuals participating in the program to secure unsubsidized employment.

(2) CWEP sites shall be located in the Spokane and Tacoma areas.

(3) Any AFDC recipient living in either the Spokane area or the Tacoma area shall, as a condition of eligibility for AFDC, participate in CWEP unless the individual:

(a) Is participating in WIN/E&T; or

(b) Meets the WIN exemption criteria of WAC 388-24-107; or

(c) Is both currently (or becomes) employed at least eighty hours per month and earning not less than the legally established minimum wage for such employment. Persons employed at least eighty hours per month at jobs not having an established minimum wage shall be exempted regardless of wage level; or

(d) Is denied an AFDC grant for any month solely because the amount of the entitlement is less than ten dollars per month.

(4) The department shall:

(a) Provide coordination between CWEP and the WIN program:

(i) To ensure that job placement will have priority over participation in CWEP; and

(ii) To ensure that aid may not be denied on the grounds of failure to participate in either WIN or CWEP if participants are actively and satisfactorily participating in the other program.

(b) Provide that CWEP work hour requirements may be met hour for hour by documented job search activity which has received prior approval by the CWEP service worker.

(c) Require appropriate standards of health, safety, and other conditions applicable to the performance of work;

(d) Ensure reasonable conditions of work, taking into account the geographic region, the residence of the participants, and the proficiency of the participants;

(e) Ensure that participants do not perform tasks in any way related to political, electoral or partisan activities or which would result in displacement of persons

currently employed or fill established unfilled position vacancies;

(f) Ensure that tasks have not been developed in response to or in any way associated with, the existence of a strike, lockout or other bona fide labor dispute or violate any existing labor agreement between employees and employers;

(g) Reimburse necessary transportation costs;

(h) Pay customary departmental scale costs of child care needed in order to participate in CWEP;

(i) Not require the use of the participant's assistance or income or resources to pay participation costs;

(j) Provide that assignments to CWEP projects will be made taking into consideration to the extent possible, the prior training, proficiency, experience, and skills of a participant;

(k) Provide that assignment to CWEP projects shall not require participants to travel unreasonable distances from home or to remain away from home overnight without consent; and

(l) Provide worker's compensation coverage for participants through the department of labor and industries.

(5) CWEP participants shall be referred to and shall participate in work experience slots designed to serve a useful public purpose in public agencies or private non-profit organizations as agreed on by the agency and the department.

(6) The hours of CWEP participation required of any assistance unit, regardless of the number of participants in that unit, shall be no more than the number calculated by dividing the amount of the household's assistance grant by the greater of the federal or state minimum wage, not to exceed one hundred twenty-eight hours during a calendar month. The AFDC payment shall not be construed as compensation for work performed.

(7) If a recipient fails or refuses without good cause to participate in the community work experience program, his or her needs shall not be taken into account in determining the family's need for assistance and grant amount. This sanction shall be consistent with the WIN sanction period in WAC 388-57-064. A recipient adversely affected shall have the opportunity for administrative review and/or fair hearing as provided by RCW 74.08.070 and chapter 388-08 WAC. Good cause provisions are included in WAC 388-57-064. WAC 388-57-064(7)(d) shall not apply to CWEP participation. [Statutory Authority: RCW 74.22.110 and 74.23.120. 83-01-057 (Order 1924), § 388-57-097, filed 12/15/82. Statutory Authority: RCW 74.08.390. 82-11-018 (Order 1807), § 388-57-097, filed 5/10/82.]

Chapter 388-59 WAC

EMERGENCY ASSISTANCE AS LOANS TO SUPPLEMENTAL SECURITY INCOME BENEFICIARIES

WAC

388-59-010 State supplementary payments—Definitions.

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) "Interim assistance" means assistance payments provided by the department to SSI applicants to meet basic needs starting with the month the eligible individual applies to SSA and ending with the month the first SSI benefit payment is made.

(4) "SSI benefit payment" means a federal benefit and any state supplementary amount determined to be payable. Advance payment and payment based upon presumptive disability or presumptive blindness are not considered SSI benefit payments for interim assistance purposes.

(5) "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.

(6) "Optional state supplement" means the elected state money payment to individuals eligible for SSI benefits on or after January 1, 1974.

(7) "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).

(8) "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).

(9) "Eligible couple" means an eligible individual and eligible spouse.

(10) "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.

(11) "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.

(12) "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.

(13) "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.

(14) "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.

(15) "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, 82-06-052 (Order 1774), § 388-59-010, filed 3/3/82; 79-04-036 (Order 1379), § 388-59-010, filed 3/22/79; Order 910, § 388-59-010, filed 3/1/74.]

Chapter 388-70 WAC

CHILD WELFARE SERVICES--FOSTER CARE-- ADOPTION SERVICES--SERVICES TO UNMARRIED PARENTS

WAC

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| 388-70-010 | Foster care—Legal basis. |
| 388-70-013 | Authorization for foster care placement. |
| 388-70-024 | Payment of foster care—Effective date. |
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| 388-70-550 | Adoption support for children—Types and amounts of payments. |
| 388-70-570 | Adoption support for children—Agreement for adoption support. |

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).

(3) Beginning October 1, 1983, the placement goal for the foster care program is to limit the number of children who remain in care in excess of twenty-four months to no more than thirty-five percent of the foster care population. [Statutory Authority: 1982 c 118, 82-23-006 (Order 1901), § 388-70-010, filed 11/4/82. 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 388-70-013 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 13.32A 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 RCW 13.32A.120 or 13.32A.140, or approved pursuant to RCW 13.32A.170 or upon a child having been admitted directly by RCW 13.32A.090.

(3) A child has been placed in shelter care as provided in the following:

(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) If a child is to be placed in group care, such placement shall only be made when the department has assessed the child's and family's needs and determined that group care is the most appropriate placement option.

(a) The department will only provide financial support for a child's group care placement when the placement is in a licensed group care facility, and

(b) The department has custody of the child, and the authority to remove the child in a cooperative manner after at least seventy-two hours notice to the child care provider; such notice may be waived in emergency situations.

(8) The child's parent(s) or legal guardian(s) has voluntarily requested, on forms prescribed by the department, the placement of the child by the department or a licensed child placement agency into foster care and the department concurs that such placement is currently necessary, provided that the maximum time period for the voluntary placement shall be three months. Such requests shall comply with foster care placement criteria

as developed by the department. [Statutory Authority: RCW 74.12.340, 82-16-064 (Order 1849), § 388-70-013, filed 7/30/82. Statutory Authority: RCW 74.08.090, 82-06-001 (Order 1764), § 388-70-013, filed 2/18/82. Statutory Authority: RCW 74.13.109 and 74.08.090, 81-18-031 (Order 1686), § 388-70-013, filed 8/27/81. Statutory Authority: RCW 74.08.090 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 388-70-024 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 family foster care payments for children in family foster care is the date:

(a) The child no longer needs foster care.

(b) The child reaches the age of eighteen. If the child is attending but has not finished high school or equivalent at the age of eighteen and has a need for continued family foster care services, payments may be continued until the date the high school program or equivalent is completed. Such payments shall not be extended beyond age twenty-one.

(3) Payment for group foster care is limited to children who are at least six years of age but under the age of eighteen. The effective date of termination of foster care payments for children in group foster care is the date:

(a) The child no longer needs group foster care.

(b) The child has been in group care eighteen consecutive months.

(c) The child reaches the age of eighteen. If the child is attending but has not finished high school or equivalent at the age of eighteen and has a need for continued group care services, payments may be continued until the date the high school program or equivalent is completed or the child has spent eighteen consecutive months in group care, whichever comes first. [Statutory Authority: RCW 74.12.340, 82-16-064 (Order 1849), § 388-70-024, filed 7/30/82. Statutory Authority: RCW 74.08.090, 82-04-070 (Order 1753), § 388-70-024, filed 2/3/82; 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, 1980, 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 fourteen dollars and fifty cents per month for a child less than six years

of age, one hundred and forty-eight dollars and seventy-five cents per month for children six through eleven years of age and one hundred and seventy-eight dollars and seventy cents 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, 81-09-042 (Order 1634), § 388-70-042, filed 4/15/81; 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-eight dollars and forty 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 ninety-five 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 ninety-five 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 utilized 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. 81-09-042 (Order 1634), § 388-70-044, filed 4/15/81; 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 388-70-048 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 | \$119.85 per month |
| (2) Intellectual/physically handicapped children | \$119.85 per month |
| (3) Emotionally handicapped children | \$119.85 per month |

[Statutory Authority: RCW 74.08.090. 81-09-042 (Order 1634), § 388-70-048, filed 4/15/81; 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 388-70-064 Payment for foster care to relative. (1) State foster care funds shall not be expended for a child living with a relative eligible to receive AFDC on behalf of the child unless the relative has been appointed guardian for a child pursuant to RCW 13.34.231 and the relative was receiving AFDC-FC (IV-E) on behalf of the child prior to the establishment of the guardianship.

(2) Natural parents, adoptive parents, and stepparents are not eligible to receive foster care payments.

(3) Relatives providing care to children potentially eligible for both AFDC and AFDC-FC (IV-E) must be given the choice of applying for either program.

(4) Homes of relatives eligible to receive AFDC grants need not be licensed; those paid from foster care funds must be licensed or certified as meeting licensing requirements per WAC 388-73-020.

(5) Other than a child's parents, persons not subject to licensing are grandparents, brothers, sisters, stepbrothers, stepsisters, uncles, aunts and first cousins. [Statutory Authority: RCW 74.08.090. 82-24-068 (Order 1915), § 388-70-064, filed 12/1/82; 80-06-069 (Order 1504), § 388-70-064, filed 5/22/80; Order 913, § 388-70-064, filed 3/1/74.]

WAC 388-70-510 Adoption support for children--Legal basis--Purpose. (1) The legal basis for the adoption support program is RCW 74.13.100 through 74.13.145 and P.L. 96-272.

(2) The purpose of the program is to encourage the adoption of hard-to-place children, that is, the child who would have to live out his or her childhood without the security and stability of a permanent adoptive home if support payments were not made. The program includes children cared for by both public and voluntary child care agencies. Interpretation of the statute and the philosophy of the adoption support program shall emphasize a flexible approach to subsidized adoption, focusing on the welfare of the child; rules shall not be adversely applied to the child's welfare. [Statutory Authority: RCW 43.20A.550. 82-02-023 (Order 1744), § 388-70-510, filed 12/30/81; Order 1037, § 388-70-510, filed 7/29/75.]

WAC 388-70-530 Adoption support for children--Eligible child. (1) A child to be considered for adoption support must be registered with the office given administrative authority for the program:

(2) A child meeting the eligibility criteria for registration is one who:

(a) Was or is residing in a foster home or a child caring institution or a child who in the judgment of the secretary, is both eligible for, and likely to be placed in, either a foster home or a child caring institution.

(b) Is legally free for adoption, and

(c) Is under eighteen years of age at the time the contract is signed, and

(d) Adoption is the most appropriate plan, and

(e) Is hard-to-place for adoption.

(3) The child must have been registered for three months with the DSHS adoption exchange or the

Washington adoption resource exchange (WARE) in addition to the northwest adoption exchange NWAEE in order to demonstrate that a nonsubsidized resource is not available if the plan is regular agency adoption.

(4) The child must be found to be difficult to place in adoption because of, but not limited to, one or more of the following:

- (a) Physical or mental handicap,
- (b) Emotional disturbance,
- (c) Ethnic background, including race, color or language,
- (d) Age,
- (e) Sibling grouping.

(5) Registration with the exchanges shall not be necessary when foster parents desire to adopt a child who has been in the foster parent's home for at least six months prior to application to the department. In cases of adoption by foster parents, the following criteria must be met:

(a) The child must be hard-to-place by virtue of eligibility as defined in subsection (4)(a) through (e) of this section; and

(b) The child must have close emotional ties to the current foster family which, if severed, could cause emotional damage to the child; and

(c) The foster family must have been identified as the adoptive family of choice by the agency staff having responsibility for the child. [Statutory Authority: RCW 43.20A.550, 82-02-023 (Order 1744), § 388-70-530, filed 12/30/81; Order 1037, § 388-70-530, filed 7/29/75.]

WAC 388-70-550 Adoption support for children--Types and amounts of payments. (1) The three types of support payments are monthly maintenance, attorney fees and/or court costs, medical (corrective-rehabilitative) service, or any combination of these.

(2) The payment for monthly maintenance shall not exceed the monthly cost standards for foster care established by the department for the department's foster homes. The payment includes regular foster care or specialized foster care, where indicated, and clothing and personal incidentals. (See WAC 388-70-042 and 388-70-048.)

(3) If the department determines that the prospective adoptive parent(s) cannot, because of limited financial means, pay the cost or the full cost of legal proceedings for the adoption of a hard-to-place child eligible for support under the act and these regulations, the secretary may authorize departmental participation in adoption legal fees as determined by the superior court at the adoption hearing up to two hundred dollars plus court costs for each child or family unit, unless a different arrangement has been made by the department with the family and the family's attorney.

In cases in which the attorney indicates that the fee shall be in excess of two hundred dollars plus costs, a request for departmental participation in that fee must be made to the adoption support program at least three weeks prior to the finalization of the adoption. In any

case, the attorney for the adoptive parent(s) shall furnish the department with a certified copy of the decree of adoption containing the finding as to the attorney's fee and an itemized statement of all other costs of the adoption proceedings.

(4) The medical needs of a child in the adoption support program shall be met from the department's medical services program.

(a) Payment of the costs of medical services shall be made directly to the physician or provider of the services according to the department's established procedures.

(b) Prior to entering an agreement for medical services, the medical needs of a particular child must be reviewed and approved by the department's office of personal health services. Following review and approval, all medical services requested by the adopting parents shall be coordinated through the adoption support program and furnished according to the department's medical programs when there is no other resource available during the effective period of the family's agreement with the department.

(c) Requests for orthodontics, psychiatric care, physical therapy, and appliances require special procedures; these requests shall be submitted to the department and the department's approval obtained before the service is rendered.

(5) Adoption support payments shall continue pursuant to the following conditions:

(a) The child has not yet reached the age of eighteen, or the age of twenty-one if the following apply:

(i) The child has not yet completed high school or high school equivalent and is a full-time student; and/or

(ii) The child is physically or mentally handicapped such that continued assistance is warranted and no other assistance is available;

(b) The child continues to be the legal responsibility of the adoptive family;

(c) The child continues to receive support from the adoptive family. [Statutory Authority: RCW 43.20A.550, 82-02-023 (Order 1744), § 388-70-550, filed 12/30/81. Statutory Authority: RCW 74.13.109, 80-08-028 (Order 1516), § 388-70-550, filed 6/25/80; Order 1037, § 388-70-550, filed 7/29/75.]

WAC 388-70-570 Adoption support for children--Agreement for adoption support. An agreement shall constitute a binding contract between the department and the prospective adoptive family to provide adoption support for a child after adoption. The agreement shall be completed in accordance with RCW 74.13.124, and P.L. 96-272 Sec. 475(2), and shall, at minimum, include the following:

(1) The amount of adoption support payments and any additional assistance which is to be provided as a part of the agreement including, where appropriate, indication of eligibility for Title XIX and Title XX services.

(2) A stipulation that the agreement shall remain in effect regardless of the state of residence of the adoptive family:

(a) In case of a move outside of the state of Washington, for eligible children, Title XIX services shall remain the responsibility of the state of Washington.

(b) In case of a move outside of the state of Washington, for eligible children, Title XX services shall become the responsibility of the new state of residence.

(3) A stipulation that the agreement must be renewed each year, with termination from the program resulting from the adoptive parents' failure to renew. [Statutory Authority: RCW 43.20A.550. 82-02-023 (Order 1744), § 388-70-570, filed 12/30/81; Order 1037, § 388-70-570, filed 7/29/75.]

Chapter 388-73 WAC

CHILD CARE AGENCIES--ADULT FAMILY HOMES MINIMUM LICENSING/CERTIFICATION REQUIREMENTS

WAC

388-73-044 Special requirements regarding American Indians.

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" includes the following groups:

(a) An enrolled Indian:

(i) Any person who is enrolled or eligible for enrollment in a recognized tribe.

(ii) Any person determined, or eligible to be found, to be an Indian by the secretary of the interior.

(iii) An Eskimo, Aleut or other Alaskan native.

(b) A Canadian Indian: Any person who is a member of a treaty tribe, Metis community or nonstatus Indian community from Canada.

(c) An unenrolled Indian: A person considered to be an Indian by a federally or nonfederally recognized Indian tribe or urban Indian/Alaskan native community organization.

(3) Prior to planning, development and delivery of social services to Indian children and families, agencies shall:

(a) Obtain a written statement from the parent or Indian custodian regarding the preference of child placement;

(b) Obtain a written statement from the parent or Indian custodian regarding the utilization of the DSHS LICWAC.

(4) When an agency has an Indian child in its case-load, 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.

(5) 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 or an Indian child eligible for enrollment.

(6) In planning foster care and adoptive placements for Indian children, consideration shall be given in the following order:

(a) Relatives;

(b) An Indian family of the same tribe as the child;

(c) An Indian family of a Washington Indian tribe of a similar culture to that tribe;

(d) Any other family which can provide a suitable home for an Indian child, such suitability to be determined through consultation with a local Indian child welfare advisory committee.

(7) When foster care or adoptive placement of a non-enrolled Indian child is planned, the Portland area office of the bureau of Indian affairs' form "family ancestry chart," or appropriate equivalent, shall be compiled. Appropriate steps shall be taken to enroll eligible children in their respective tribes.

(8) Unless contrary to the wishes of a child and/or his parent(s), agencies serving Indian children shall make efforts to recruit facilities and/or homes particularly capable of meeting the special needs of such children. Indian children shall be placed preferably in Indian foster homes or in non-Indian foster homes specifically recruited and trained to meet the special needs of Indian foster children.

(9) When an agency has an Indian child in its case-load, 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.

(10) If not contrary to the wishes of a child and/or his parent(s), in the adoptive placement of Indian children adoptive homes having the following characteristics shall be given preference in the following order:

(a) An Indian family of the same tribe as the child within 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.

(11) All agencies:

(a) Shall utilize the DSHS brochure, DSHS 22-195(X), as a manner of obtaining client consent for review by the DSHS local Indian child welfare advisory committee (LICWAC).

(b) Shall consult with the LICWAC or regional Indian consultant on case planning, development and service delivery.

(c) Shall utilize the LICWAC or regional Indian consultant to assist in the recruitment of appropriate tribal and urban Indian foster care and adoptive homes for Indian children.

(d) Shall utilize the LICWAC or regional Indian consultant in the development and provision of staff training.

(e) Shall complete a "Verification of American Indian Status" form for each family applying for foster care or adoptive care of Indian children. The verification form must be complete and on file, with review and approval by the LICWAC, prior to placement. When Indian homes are not available, Indian children shall be placed, in cooperation with LICWAC, in non-Indian homes specifically recruited and trained to meet the special needs of Indian children. [Statutory Authority: RCW 74.15.030, 81-20-011 (Order 1703), § 388-73-044, filed 9/25/81; 78-10-006 (Order 1336), § 388-73-044, filed 9/8/78.]

Chapter 388-80 WAC

MEDICAL CARE--DEFINITIONS

WAC

388-80-002 Applicability.
388-80-005 Definitions.

WAC 388-80-002 Applicability. These rules are immediately applicable to determinations of eligibility under the medical care program enacted by Substitute Senate Bill No. 4299, effective July 1, 1981. [Statutory Authority: RCW 74.08.090, 81-16-033 (Order 1685), § 388-80-002, filed 7/29/81.]

WAC 388-80-005 Definitions. (1) "Application" shall mean a written request for medical assistance or limited casualty program from the applicant, an authorized representative, or if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant to the department of social and health services the application shall be on a form prescribed by the department.

(2) "Assignment" is the method by which the provider receives payment for services under Part B of medicare.

(3) "Assistance unit" means a person or members of a family unit who are eligible for cash or medical assistance under a federally matched program including state supplement.

(4) "Authorization" means an official approval of a departmental action.

(5) "Beneficiary" is an eligible individual who receives a federal cash benefit and/or state supplement under Title XVI.

(6) "Benefit period" is the time period used in determining whether medicare can pay for covered Part A services. A benefit period begins the first day a beneficiary is furnished inpatient hospital or extended care services by a qualified provider. It ends when the beneficiary has not been an inpatient of a hospital or other facility primarily providing skilled nursing or rehabilitation services for sixty consecutive days. There is no limit to the number of benefit periods a beneficiary can have.

(7) "Cabulance" means a vehicle designed and used for the purpose of transporting persons confined to a wheelchair or persons otherwise physically restricted.

(8) "Carrier" is an organization who has a contract with the federal government to process claims under Part B of medicare.

(9) "Categorically needy" refers to a resident of the state of Washington whose income and resources are evaluated for cash assistance and who is:

(a) Receiving or eligible to receive cash assistance.

(i) Aid to Families of Dependent Children (AFDC).

(ii) Supplemental Security Income (SSI), including grandfathered individuals and individuals with essential spouses.

(iii) State supplement.

(iv) Special categories.

(b) A financially eligible person under twenty-one who would be eligible for AFDC but does not qualify as a dependent child and who is in:

(i) Foster care, or

(ii) Subsidized adoption, or

(iii) A skilled nursing home, intermediate care facility, or intermediate care facility for mentally retarded, or

(iv) An approved inpatient psychiatric facility.

(c) Individuals who would be eligible for cash assistance except for their institutional status.

(d) An individual who is SSI categorically related and would not be eligible for cash assistance if they were not institutionalized and whose gross income does not exceed the three hundred percent SSI benefit cap. This includes only aged, blind, and disabled groups.

(10) "Central disbursements" is a state office section which audits nonmedicaid medical claims for payment.

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

(12) "CFR" means the code of federal regulations and is a codification of the general and permanent rules published in the federal register by the executive departments and agencies of the federal government.

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

(14) "Client" means an applicant for or recipient of financial and/or social services provided by the department of social and health services.

(15) "Coinsurance" means the portion of reimbursable hospital and medical expenses, after subtraction of any deductible, which medicare does not pay. Under Part A, coinsurance is a per day dollar amount, and under Part B, is twenty percent of reasonable charges.

(16) "CSO" (community service office) is an office of the department which administers the various social and health services at the community level.

(17) "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.

(18) "Copayment" means a fixed dollar amount that is the responsibility of the recipient of specified services.

(19) "Deductible" means an initial specified amount that is the responsibility of the applicant and/or recipient.

(a) Part A of medicare – Inpatient hospital deductible – an initial amount in each benefit period which medicare does not pay.

(b) Part B of medicare – The first sixty dollars in expenses which must be incurred before medicare starts to pay.

(c) Limited casualty program—medically needy—inpatient hospital deductible—an initial amount as specified in chapter 388-99 WAC, the department does not pay.

(d) Limited casualty program—medically indigent—means incurring a dollar amount as specified in chapter 388-100 WAC, the department does not pay.

(20) "Delayed certification" shall mean the date of certification for medicaid and date of application for SSI are the same for an SSI beneficiary whose eligibility decision was delayed due to administrative action.

(21) "Department" shall mean the state department of social and health services.

(22) "Division of medical assistance" shall mean the single state agency authorized to administer the Title XIX medical assistance program.

(23) "Eligible couple" means an eligible individual and eligible spouse.

(24) "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.

(25) "EPSDT" shall mean a program providing early and periodic screening, diagnosis and treatment to persons under twenty-one years of age who are eligible under Title XIX of the Social Security Act.

(26) "Essential spouse" means a spouse whose needs were taken into account in determining the need of OAA, AB, or DA recipient for December 1973, who continues to live in the home of such recipient, and continues to be an essential spouse.

(27) "Extended care patient" is a recently hospitalized medicare patient who needs relatively short-term skilled nursing and rehabilitative care in a skilled nursing facility.

(28) "Fair hearing" means an administrative proceeding by which the department hears and decides the appeal of an applicant/recipient from an action or decision of the department.

(29) "Federal aid" means the assistance programs for which the state receives matching funds from the federal government.

(30) "Fraud" shall mean a deliberate, intentional, and wilful act, with the specific purpose of deceiving the department with respect to any material, fact, condition, or circumstances affecting eligibility or need.

(31) "General assistance – continuing" (GAU) means assistance to unemployable persons who are not eligible for or not receiving federal aid assistance and whose medical care is defined in chapter 388-86 WAC.

(32) "Grandfathering" refers to:

(a) A noninstitutionalized individual who meets all current requirements for medicaid eligibility except the criteria for blindness or disability; and

(i) As eligible for medicaid in December 1973, as blind or disabled, whether or not he/she was receiving cash assistance in December 1973; and

(ii) For each consecutive month after December 1973, continue to meet the criteria for blindness and disability and other conditions of eligibility used under the medicaid plan in December 1973; and

(iii) The needs of the "essential person" shall only be considered when he/she is living with such person in the same household.

(b) An institutionalized individual who was eligible for medicaid in December 1973, or any part of that month, as an inpatient of a medical institution or resident of intermediate care facility that was participating in the medicaid program and for each consecutive month after December 1973:

(i) Continued to meet the requirements for medicaid eligibility that were in effect under the state's plan in December 1973, for institutionalized individuals; and

(ii) Remained institutionalized.

(33) "Home health agency" is an agency or organization certified under medicare to provide skilled nursing and other therapeutic services to the patient in his/her place of residence.

(34) "Hospital" shall mean any institution licensed as a hospital by the official state licensing authority.

(35) "Institution" shall mean an establishment which furnishes food and shelter to four or more persons unrelated to the proprietor and, in addition provides medically related services and medical care. This would include hospitals, skilled nursing facilities, intermediate care facilities, and institutions for the mentally retarded, but does not include correctional institutions.

(36) "Intermediary" is an organization who has an agreement with the federal government to process medicare claims under Part A.

(37) "Intermediate care facility" shall mean a licensed facility certified to provide intermediate care for which an agreement has been executed.

(38) "Intermediate care facility/IMR" shall mean a state institution or a licensed nursing home either of which has been certified by state office (SO) as meeting the CFR regulations to provide twenty-four hour health-related care and services to mentally retarded persons or persons with related conditions.

(39) "Legal dependents" are persons whom an individual is required by law to support.

(40) "Limited casualty program" means a medical care program for medically needy as defined in chapter 388-99 WAC, and for medically indigent as defined in chapter 388-100 WAC.

(41) "Medicaid" or "Medical assistance" (MA) shall mean the federal aid Title XIX program under which medical care is provided to:

(a) Categorically needy as defined in chapter 388-82 WAC.

(b) Medically needy as defined in chapters 388-92 and 388-99 WAC.

(42) "Medical consultant" shall mean a physician employed by the department at the CSO level.

(43) "Medical facility." See "Institution."

(44) "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.

(45) "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.

(46) "Month of application" shall mean the calendar month in which the application is filed unless it is filed in the last ten days of that month; then the month of application may be the following month.

(47) "Nursing care consultant" shall mean a qualified and licensed registered nurse employed by the bureau of nursing home affairs who is centrally supervised, but stationed in CSO's.

(48) "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 or a nursing home.

(49) "Part A" is the hospital insurance portion of medicare.

(50) "Part B" is the supplementary medical insurance benefit (SMIB) or the "doctor's portion" of medicare.

(51) "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, Western". The department has adopted this book as the basis for authorizing payment for the maximum number of inpatient hospital days for recipients of state-funded programs, or where no memorandum of understanding with a PSRO exists.

(52) "Patient transportation" means the transportation of recipients to and from medical services covered under the medical assistance program.

(53) "Physician" is a doctor of medicine, osteopathy, or podiatrist who is legally authorized to perform the functions of his profession by the state in which he performs them.

(54) "Professional standards review organization" (PSRO). See "Washington state professional standards review organization".

(55) "Provider" or "provider of service" means an institution, agency, or individual who has a signed agreement to furnish medical care and goods and/or services to recipients and who is eligible to receive payment from the department.

(56) "Provider services" shall mean the office of the division of medical assistance which processes claims for payment under Title XIX and state-funded programs.

(57) Residence, state of means:

(a) The state where the applicant/recipient is living with the intent to remain there permanently or for an indefinite period;

(b) The state which he/she entered with a job commitment or to seek employment, whether or not currently employed;

(c) The state making a state supplementary payment;

(d) The state making placement in an out-of-state institution;

(e) The state of the parents or legal guardian, if one has been appointed, of an institutionalized individual who is under age twenty-one or is age twenty-one or over and who became incapable of determining residential intent before age twenty-one;

(f) The state where the person over age twenty-one judged to be legally incompetent is living.

(58) "Retroactivity" means:

(a) Under medical assistance, the period of no more than three months prior to month of application to an otherwise eligible individual.

(b) Under state-funded, the period of no more than seven days prior to date of application, to an otherwise eligible continuing general assistance recipient. The seven days shall not include Saturday, Sunday or legal holidays. The department may on an exception to policy basis waive the seven-day rule if the person failed to apply because of medical reasons or other good cause.

(59) "Skilled nursing facility," 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 and is certified, and has an agreement to provide skilled nursing home care.

(60) "Spell of illness." See "Benefit period."

(61) "Spend down" means the individual incurs medical expenses to reduce income to the financial standards established by the department.

(62) "Spouse"

(a) "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.

(b) "Ineligible spouse" means the husband or wife of an eligible individual who is not aged, blind or disabled; or who although aged, blind or disabled has not applied for such assistance.

(c) "Nonapplying spouse" means the husband or wife of an eligible individual who although aged, blind or disabled has not applied for such assistance.

(63) "State-funded medical care" shall mean medical care, as defined by DSHS, provided to eligible persons on continuing general assistance.

(64) "State office" or "SO" shall mean the division of medical assistance of the department.

(65) "Supplementary payment" means the state money payment to individuals receiving benefits under Title XVI (or who would, but for their income, be eligible for such benefits) as assistance based on need in supplementation of SSI benefits. This payment includes:

(a) "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.

(b) "Optional state supplement" means the elected state money payment to individuals eligible for SSI benefits or who except for the level of their income would be eligible for such benefits.

(66) "Supplemental security income (SSI) program, Title XVI," 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).

(67) "Third party" means any entity that is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of Medicaid.

(68) "Washington State Professional Standards Review Organization" (WSPSRO) is the state level organization responsible for determining whether health care activities are medically necessary, meet professionally acceptable standards of health care, and are appropriately provided in an outpatient or institutional setting for beneficiaries of medicare and recipients of medicaid and maternal and child health. [Statutory Authority: RCW 74.08.090. 82-10-062 (Order 1801), § 388-80-005, filed 5/5/82; 82-06-003 (Order 1766), § 388-80-005, filed 2/18/82; 82-01-001 (Order 1725), § 388-80-005, filed 12/3/81; 81-16-033 (Order 1685), § 388-80-005, filed 7/29/81; 81-11-046 (Order 1655), § 388-80-005, filed 5/20/81; 80-13-020 (Order 1542), § 388-80-005, filed 9/9/80; 80-02-001 (Order 1470), § 388-80-005, filed 1/3/80; 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

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|------------|---|
| 388-81-005 | Medical care program. |
| 388-81-025 | Eligibility--General. |
| 388-81-030 | Case exception. |
| 388-81-040 | Fair hearing. |
| 388-81-050 | Restitution. |
| 388-81-052 | Receipt of resources without giving adequate consideration. |
| 388-81-055 | Fraud. |
| 388-81-060 | Supplementary medical insurance "buy in." |

WAC 388-81-005 Medical care program. The department of social and health services provides a medical care program, administered through the division of medical assistance, designed to meet the health care needs of eligible individuals who have been determined eligible as defined in chapters 388-82, 388-99, and 388-100 WAC. [Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-81-005, filed 7/29/81; 81-10-014 (Order 1646), § 388-81-005, filed 4/27/81; 80-13-020 (Order 1542), § 388-81-005, filed 9/9/80; Order 1233, § 388-81-005, filed 8/31/77; Order 833, § 388-81-005, filed 7/26/73; Order 264 (part), § 388-81-005, filed 11/24/67.]

WAC 388-81-025 Eligibility--General. (1) Financial eligibility is established when the department certifies that the applicant meets the appropriate financial requirements in chapters 388-83, 388-92, 388-99 or 388-100 WAC.

(2) The department shall be responsible for payment of medical care provided within the scope of the program to eligible persons. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-81-025, filed 12/3/81; 81-16-033 (Order 1685), § 388-81-025, filed 7/29/81; 81-10-014 (Order 1646), § 388-81-025, filed 4/27/81; 80-13-020 (Order 1542), § 388-81-025, filed 9/9/80; Order 1112, § 388-81-025, filed 4/15/76; Order 472, § 388-81-025, filed 8/19/70; Order 299, § 388-81-025, filed 9/6/68; Order 264 (part), § 388-81-025, filed 11/24/67.]

WAC 388-81-030 Case exception. A request for an exception to policy for medical care services denied by strict application of a rule or regulation requires approval by the division of medical assistance, the single state agency for administering Title XIX. See WAC 388-20-020 for exception to policy procedures. [Statutory Authority: RCW 74.08.090. 82-17-072 (Order 1868), § 388-81-030, filed 8/18/82; 80-13-020 (Order 1542), § 388-81-030, filed 9/9/80; Order 1112, § 388-81-030, filed 4/15/76; Order 299, § 388-81-030, filed 9/6/68; Order 264 (part), § 388-81-030, filed 11/24/67.]

WAC 388-81-040 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 medicaid category or state funded medical program, a prehearing review is the responsibility of the division 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) An medical assessment by a professionally qualified person and/or persons not a party to the action being appealed may be obtained at the request of the examiner or the appellant.

(7) 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.

(8) In providing a system for fair hearings for applicants or recipients of medical care, the rules in chapter 388-08 WAC shall be adhered to and, where appropriate, other portions of WAC which are applicable to the particular circumstances of the appellant. [Statutory Authority: RCW 74.08.090. 81-10-014 (Order 1646), § 388-81-040, filed 4/27/81; 80-13-020 (Order 1542), § 388-81-040, filed 9/9/80; 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/she fails to disclose to the department, the amount of such medical care payment made by the department on his/her behalf which could have been met by his/her 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 the 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. 81-10-014 (Order 1646), § 388-81-050, filed 4/27/81; 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.]

WAC 388-81-052 Receipt of resources without giving adequate consideration. (1) Any person who knowingly and wilfully receives nonexempt resources transferred or assigned for less than fair market value after December 1, 1981, and within two years preceding the application for medical care, to enable an applicant or recipient to qualify or continue to qualify for Title XVI related medical assistance or the limited casualty program for the medically needy, is liable for a civil penalty and is subject to referral for criminal prosecution for commission of a gross misdemeanor.

(2) Definitions:

(a) "Transfer" shall mean any act or omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing an interest in property. Transfer of title to a resource occurs by:

(i) An intentional act or transfer; or

(ii) Failure to act to preserve title to the resource.

(b) Fair market value means the reasonable value of a resource at the time of transfer or assignment.

(c) Uncompensated value means the fair market value of a resource minus the amount of compensation received in exchange for the resource.

(d) Value of compensation received means the consideration paid or agreed to be paid by the purchaser.

(3) WAC 388-28-461, 388-28-462, and 388-28-465 are incorporated by reference and apply to this section, with the exception to the reference therein to WAC 388-28-460.

(4) The voluntary transfer or assignment of resources between spouses is permitted without affecting eligibility or continued eligibility of the spouse who transfers(ed) or assigns(ed) the resources.

(5) The amount of the civil penalty shall be equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value.

(6) The civil penalty shall not exceed the cost of assistance rendered by the department to the recipient.

(7) Written notice of imposition of the civil penalty shall be provided by personal service or certified mail to the individual or entity subject to the civil penalty.

(8) The person or entity alleged to be subject to the civil penalty under this section has the right to request a hearing to appeal the determination, and said hearing shall be in accordance with the administrative procedures in chapter 388-08 WAC except as modified by this section.

(a) There is a rebuttable presumption that a person who received cash or other nonexempt resources from an applicant or recipient for less than fair market value within two years preceding the date of application for medical care, did so knowingly and wilfully for the purpose of enabling the applicant or recipient to qualify or continue to qualify for assistance.

(b) The person has the right to offer evidence to rebut the presumption that the transfer or assignment was made for purposes of enabling the applicant or recipient to qualify or continue to qualify for assistance and that the person knowingly and wilfully received the resource for such purpose.

(c) The prevailing party in such an action shall be awarded reasonable attorney fees. [Statutory Authority: RCW 74.08.090. 82-23-002 (Order 1897), § 388-81-052, filed 11/4/82; 82-10-017 (Order 1776), § 388-81-052, filed 4/28/82.]

WAC 388-81-055 Fraud. Any person who by means of willfully false statement or representation or by impersonation or other fraudulent device or failure to reveal resources as required obtains or attempts to obtain or aids or abets any person to obtain medical care to which he/she is not entitled shall be guilty of larceny. See WAC 388-44-020 for procedures to be followed in cases involving fraud. [Statutory Authority: RCW 74.08.090. 81-10-014 (Order 1646), § 388-81-055, filed 4/27/81; Order 299, § 388-81-055, filed 9/6/68; Order 264 (part), § 388-81-055, filed 11/24/67.]

WAC 388-81-060 Supplementary medical insurance "buy in." The department will purchase supplementary medical insurance Part B, under Title XVIII of the Social Security Act for an otherwise eligible individual. [Statutory Authority: RCW 74.08.090. 81-10-014 (Order 1646), § 388-81-060, filed 4/27/81; Order 911, § 388-81-060, filed 3/1/74; Order 833, § 388-81-060, filed 7/26/73; Order 299, § 388-81-060, filed 9/6/68.]

Chapter 388-82 WAC

**MEDICAL CARE--PROGRAM DESCRIBED--
LIMITATIONS**

WAC

- 388-82-005 Repealed.
- 388-82-006 Medical assistance.
- 388-82-010 Persons eligible for medical assistance.
- 388-82-015 Repealed.
- 388-82-020 Repealed.
- 388-82-025 Repealed.
- 388-82-030 Repealed.
- 388-82-035 Repealed.

- 388-82-045 Repealed.
- 388-82-115 Special categories eligible for medical assistance.
- 388-82-125 Recipients in medical institutions eligible under Title XIX.
- 388-82-126 State funded medical care program.
- 388-82-130 Medical care provided in bordering cities.
- 388-82-135 Out-of-state medical care.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-82-005 Medical care--General description of programs. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-82-005, filed 9/9/80; 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.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-82-015 "H" category (federal aid). [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.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-82-020 Medical care services. [Statutory Authority: RCW 74.08.090. 80-15-034 (Order 1554), § 388-82-020, filed 10/9/80; 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.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-82-025 Institutional status. [Order 1097, § 388-82-025, filed 2/13/76; Order 518, § 388-82-025, filed 2/24/71; Order 264 (part), § 388-82-025, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-82-030 State of Washington resident requiring care out-of-state. [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.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-82-035 Out-of-state resident requiring medical care in Washington state. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-82-035, filed 9/9/80; Order 1203, § 388-82-035, filed 4/1/77; Order 1158, § 388-82-035, filed 10/6/76; Order 995, § 388-82-035, filed 12/31/74; Order 879, § 388-82-035, filed 11/29/73; Order 404, § 388-82-035, filed 11/24/69; Order 382, § 388-82-035, filed 8/27/69; Order 300, § 388-82-035, filed 9/6/68; Order 264 (part), § 388-82-035, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-82-045 Medical care for United States citizen returned from foreign country. [Order 300, § 388-82-045, filed

9/6/68.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

WAC 388-82-005 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-82-006 Medical assistance. Medical assistance is the Title XIX funded medical program that provides full scope medical care to eligible individuals. [Statutory Authority: RCW 74.08.090, 81-10-014 (Order 1646), § 388-82-006, filed 4/27/81.]

WAC 388-82-010 Persons eligible for medical assistance. Medical assistance is available to any individual who is categorically needy.

(1) Individuals receiving or eligible to receive a cash assistance payment. Categories under which individuals may qualify include:

- (a) Aid to families with dependent children (AFDC);
- (b) Supplemental security income (SSI);
- (c) State supplemental payment. The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for medic-aid; and

(d) Individuals under age twenty-one whose income is less than the one person AFDC standard and who are in:

- (i) Foster care; or
- (ii) Subsidized adoption; or
- (iii) Skilled nursing home, intermediate care facility, or intermediate care facility for mentally retarded (ICF/MR); or
- (iv) Approved inpatient psychiatric facilities.

(2) Individuals in medical facilities:

(a) Who would be eligible for cash assistance if they were not institutionalized. This includes all categorically needy groups;

(b) Who are SSI categorically related and would not be eligible for cash assistance if they were not institutionalized and whose gross income does not exceed the three hundred percent SSI benefit cap. This includes only aged, blind, and disabled groups.

(3) Individuals who would not receive cash assistance because of special provisions as defined in WAC 388-83-028. [Statutory Authority: RCW 74.08.090, 82-21-024 (Order 1891), § 388-82-010, filed 10/13/82; 82-06-003 (Order 1766), § 388-82-010, filed 2/18/82; 82-01-001 (Order 1725), § 388-82-010, filed 12/3/81; 81-16-033 (Order 1685), § 388-82-010, filed 7/29/81; 81-11-046 (Order 1655), § 388-82-010, filed 5/20/81; 80-13-020 (Order 1542), § 388-82-010, filed 9/9/80; 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-82-020 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-82-025 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-82-030 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-82-035 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-82-045 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-82-115 Special categories eligible for medical assistance. (1) Persons who, in August 1972, received OAA, AB, AFDC, or APTD, and also received RSDI benefits, and who became ineligible for OAA, AB, AFDC or APTD solely because of the twenty percent increase in Social Security benefits under Public Law 92-336, shall be eligible for medicaid as categorically needy. The provision applies to both current cash applicants and recipients.

(2) Applicants for SSI 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.

(3) An AFDC family unit which becomes ineligible solely 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.

(4) Current recipients who become ineligible for SSI benefits and/or state supplementary payments after April 1, 1977, solely because of OASDI cost-of-living benefit increases under Public Law 94-566, section 503, shall remain categorically eligible for medical assistance (MA). Any subsequent OASDI cost-of-living benefit including cost-of-living benefits of a financially responsible spouse must be considered available income. 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.

(5) Certain recipients of SSI, after January 1, 1981, will continue to be eligible for medical assistance (MA) under Public Law 96-265.

(6) Pregnant women, with no other eligible children, ineligible for AFDC cash assistance solely because they have not reached the sixth month of pregnancy shall be eligible for Medicaid as categorically needy. [Statutory Authority: RCW 74.08.090. 81-23-046 (Order 1721), § 388-82-115, filed 11/18/81; 81-10-014 (Order 1646), § 388-82-115, filed 4/27/81.]

WAC 388-82-125 Recipients in medical institutions eligible under Title XIX. Medical assistance is available to an otherwise eligible individual who is in a Title XIX certified medical facility defined as:

- (1) A general hospital,
- (2) A skilled nursing home,
- (3) An intermediate care facility,
- (4) An intermediate care facility for mentally retarded,

(5) In state mental institutions, only eligible individuals age sixty-five and over and under age twenty-one,

(6) An approved inpatient psychiatric facility for eligible individuals under age twenty-one. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-82-125, filed 12/3/81; 81-10-014 (Order 1646), § 388-82-125, filed 4/27/81.]

WAC 388-82-126 State funded medical care program. (1) State-funded medical care is a more limited scope of medical care provided to eligible individuals as defined in chapter 388-86 WAC.

(2) Continuing general assistance recipients in skilled nursing homes, intermediate care facilities or intermediate care facilities for mentally retarded shall be provided medical care to the same extent as a recipient of medical assistance. [Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-82-126, filed 7/29/81; 81-10-014 (Order 1646), § 388-82-126, filed 4/27/81.]

WAC 388-82-130 Medical care provided in bordering cities. Medical care will be provided to eligible individuals in a bordering city on the same basis as in-state care. The only recognized bordering cities are Moscow, Sandpoint, Priest River, and Lewiston, Idaho; Portland, The Dalles, Hood River, Rainier, Milton-Freewater, and Astoria, Oregon. [Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-82-130, filed 7/29/81; 81-10-014 (Order 1646), § 388-82-130, filed 4/27/81.]

WAC 388-82-135 Out-of-state medical care. (1) A categorically needy resident of the state of Washington temporarily out of the state may be provided medical assistance within the scope of the medicaid program.

(a) Residency requirements in chapter 388-80 WAC must be met.

(b) Medical assistance may be provided only in areas of Canada that border on the United States when no other resource is available.

(2) Persons eligible for the limited casualty program—medically needy may be provided medical care within the scope of that program.

(3) When an eligible individual goes to another state, excluding bordering cities, expressly to obtain medical care that is available within the state of Washington, medical assistance will only be provided on an emergency basis.

(4) Medical assistance will be provided to persons who enter the state and are determined to be financially eligible, provided the residency requirements in chapter 388-80 WAC are met.

(5) State-funded medical care is not provided out-of-state except in designated bordering cities. [Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-82-135, filed 7/29/81; 81-10-014 (Order 1646), § 388-82-135, filed 4/27/81.]

Chapter 388-83 WAC

MEDICAL CARE--ELIGIBILITY

WAC

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| 388-83-005 | Medical assistance eligibility. |
| 388-83-006 | State-funded medical care services. |
| 388-83-010 | Alternative sources for medical care. |
| 388-83-015 | Citizenship and alienage. |
| 388-83-017 | Social security number. |
| 388-83-020 | Age. |
| 388-83-025 | Residence. |
| 388-83-028 | Eligibility factors for special categories. |
| 388-83-030 | Repealed. |
| 388-83-035 | Repealed. |
| 388-83-036 | Monthly maintenance standard—Applicant not in own home. |
| 388-83-040 | Repealed. |
| 388-83-045 | Repealed. |
| 388-83-050 | Repealed. |
| 388-83-055 | Repealed. |
| 388-83-060 | Repealed. |
| 388-83-065 | Repealed. |
| 388-83-130 | Eligibility determination—Noninstitutional. |
| 388-83-135 | Eligibility determination—Institutional. |
| 388-83-140 | Allocation of income—Institutionalized recipient. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-83-030 | Computation of available income and resources. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-83-030, filed 9/9/80; 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 4/15/76; Order 922, § 388-83-030, filed 4/15/74; Order 780, § 388-83-030, filed 3/16/73; Order 710, § 388-83-030, filed 9/14/72; Order 655, § 388-83-030, filed 2/9/72; Order 466, § 388-83-030, filed 6/23/70; Order 264 (part), § 388-83-030, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
| 388-83-035 | Monthly maintenance standard—Applicant living in own home. [Statutory Authority: RCW 74.08.090. 80-12-012 (Order 1537), § 388-83-035, filed 8/25/80; 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.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

388-83-040 Monthly personal needs allowance—Applicant in institution. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-83-040, filed 9/9/80; 80-02-062 (Order 1478), § 388-83-040, filed 1/18/80; 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.] Repealed by 81-16-033 (Order 1685), filed 7/29/81. Statutory Authority: 74.08.090.

388-83-045 Allocation of available income and nonexempt resources. [Statutory Authority: RCW 74.08.090. 80-15-034 (Order 1554), § 388-83-045, filed 10/9/80; 80-02-061 (Order 1479), § 388-83-045, filed 1/18/80; 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.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

388-83-050 Availability of resources. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-83-050, filed 9/9/80; 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.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

388-83-055 Exempt resources. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-83-055, filed 9/9/80; Order 1233, § 388-83-055, filed 8/31/77; Order 1158, § 388-83-055, filed 10/6/76; Order 780, § 388-83-055, filed 3/16/73; Order 710, § 388-83-055, filed 9/14/72; Order 419, § 388-83-055, filed 12/31/69; Order 400, § 388-83-055, filed 11/5/69; Order 301, § 388-83-055, filed 9/6/68; Order 264 (part), § 388-83-055, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

388-83-060 Nonexempt resources. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-83-060, filed 9/9/80; Order 400, § 388-83-060, filed 11/5/69; Order 264 (part), § 388-83-060, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

388-83-065 Transfer of resources within two years prior to application. [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.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

WAC 388-83-005 Medical assistance eligibility.

The department shall provide medical assistance within the limitations set forth under these rules and regulations to any individual who has been certified Title XIX eligible categorically needy. The recipient shall be responsible for furnishing the provider with a medical identification coupon or other adequate notification of eligibility provided by the department. Eligibility for medically needy is described in chapter 388-99 WAC. [Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-83-005, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-005, filed 4/27/81; Order 1203, § 388-83-005, filed 4/1/77; Order 922, § 388-83-005, filed 4/15/74; Order 483, § 388-83-005, filed 10/13/70; Order 264 (part), § 388-83-005, filed 11/24/67.]

WAC 388-83-006 State-funded medical care services.

The department shall provide state-funded medical care within the limitations set forth under these rules and regulations to any individual who has been certified as eligible to receive such services as a continuing general assistance recipient. The recipient shall be responsible for furnishing the provider with a medical identification coupon or other adequate verification of eligibility provided by the department. Eligibility for medically indigent is described in chapter 388-100 WAC. [Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-83-006, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-006, filed 4/27/81.]

WAC 388-83-010 Alternative sources for medical care.

(1) All third party resources for medical care available to the applicant or recipient must be utilized to the fullest possible extent in the payment for the medical care prior to participation by the department.

(2) Any payment, additional payment or contribution by or on behalf of an applicant recipient, meant to increase the overall level of care beyond that included in the amount, duration or scope of medical care shall be considered as a nonexempt resource and will be applied against the cost of medical care provided under the program.

(3) The department makes agreements with providers of prepaid medical plans. Eligible recipients who choose to participate in a prepaid program are required to utilize such providers of service exclusively except for certain noncovered services for which the department may be responsible under the medical care program. See WAC 388-87-010(4). [Statutory Authority: RCW 74.08.090. 81-10-014 (Order 1646), § 388-83-010, filed 4/27/81; 80-13-020 (Order 1542), § 388-83-010, filed 9/9/80; Order 1061 § 388-83-010, filed 10/8/75; Order 780, § 388-83-010, filed 3/16/73; Order 405, §

388-83-010, filed 11/24/69; Order 264 (part), § 388-83-010, filed 11/24/67.]

WAC 388-83-015 Citizenship and alienage. An applicant must be a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law including an alien who is lawfully present in the United States according to specified sections of the Immigration and Nationality Act. (See WAC 388-26-120) [Statutory Authority: RCW 74.08.090. 81-10-014 (Order 1646), § 388-83-015, filed 4/27/81; Order 967, § 388-83-015, filed 8/29/74; Order 264 (part), § 388-83-015, filed 11/24/67.]

WAC 388-83-017 Social security number. (1) A categorically needy applicant shall be encouraged to provide a social security number on the application form and shall be assisted to secure such number if he/she wishes to secure one.

(2) There is no Title XIX enumeration requirement. [Statutory Authority: RCW 74.08.090. 81-10-014 (Order 1646), § 388-83-017, filed 4/27/81; Order 1056, § 388-83-017, filed 9/25/75.]

WAC 388-83-020 Age. No age requirement is imposed as a condition of eligibility in regard to medical assistance. The age of the applicant is established to determine whether the individual may be related to a federal aid category, or may be eligible for the under age twenty-one category. [Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-83-020, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-020, filed 4/27/81; Order 264 (part), § 388-83-020, filed 11/24/67.]

WAC 388-83-025 Residence. An applicant or recipient of the benefits of the medical care program must be a resident of the state of Washington; an applicant-recipient need not be a resident of the county in which medical care is obtained. [Statutory Authority: RCW 74.08.090. 81-10-014 (Order 1646), § 388-83-025, filed 4/27/81; 80-02-001 (Order 1470), § 388-83-025, filed 1/3/80; Order 264 (part), § 388-83-025, filed 11/24/67.]

WAC 388-83-028 Eligibility factors for special categories. (1) Cash recipients of OAA, AB or APTD who became ineligible because of the twenty percent increase in RSDI benefits in August 1972, must have that increase disregarded in determining current eligibility. If the sole reason for their income exceeding the cash standard is the August 1972, increase, then they are categorically eligible for medicaid. Medicaid eligibility determinations for this group must include this factor.

(2) Persons who were eligible under federal cash assistance programs (AFDC, OAA, AB or APTD) but were not receiving assistance, and would have been ineligible solely because of the August 1972, RSDI twenty percent increase shall have the twenty percent increase disregarded in determining financial eligibility.

(3) An AFDC family unit which becomes ineligible solely 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.

(4) Current recipients who become ineligible for SSI benefits and/or state supplementary payments solely because of OASDI cost-of-living benefit increases received after April 1977, shall remain categorically eligible for medical assistance (MA). Any subsequent OASDI cost-of-living benefit must be considered available income. 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.

(5) Persons who were "grandfathered" into SSI January 1, 1974, and continue to meet the definition in chapter 388-80 WAC are eligible for medical assistance. Termination and reapplication does not reinstate the "grandfathered" status. Program and eligibility factors are described in chapter 388-93 WAC. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-83-028, filed 12/3/81; 81-10-014 (Order 1646), § 388-83-028, filed 4/27/81; 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-83-035 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-83-036 Monthly maintenance standard--Applicant not in own home. (1) The monthly standard for a Title XVI related individual or GA-U recipient living in a CCF, adult family home or group home shall be the cost standard of the facility. Cost plus a specified CPI may not exceed three hundred percent of the current SSI federal benefit level.

(2) The AFDC recipient receiving intensive (thirty days or less) alcohol treatment may be granted GA-U funds within the maximum which are paid to the facility for the cost of care.

(3) For the Title XVI related person with income, all earned and unearned exemptions allowed by SSI may be

retained for personal needs. The GA-U recipient is subject to GA-U income and resource standards.

(4) If income available to the recipient is less than the CPI standard, a state payment is authorized to the recipient to meet his or her personal needs.

(5) Payment is made by the department to the facility for the difference between income available for payment on care and the cost standard of the facility. [Statutory Authority: RCW 74.08.090, 81-16-033 (Order 1685), § 388-83-036, filed 7/29/81.]

WAC 388-83-040 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-83-045 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-83-050 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-83-055 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-83-060 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-83-065 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-83-130 Eligibility determination--Non-institutional. (1) Eligibility determination for AFDC shall be as follows:

(a) Individuals under age eighteen shall have eligibility determination based on the AFDC one-person standard if they are:

- (i) Not SSI related
- (ii) Not AFDC related (dependent child)

(b) When an under age eighteen person resides in the same family unit with parents, the parents' income is considered available whether or not actually contributed. See WAC 388-82-115(6) for the pregnant woman.

(c) The AFDC earned income exemption of thirty dollars plus one-third of remainder does not apply to individuals initially applying solely for medical assistance.

(d) Families applying for medical assistance who received AFDC in any of the four preceding months shall be allowed the thirty dollars plus one-third disregard. After receiving the thirty dollars plus one-third income disregard for a maximum of four consecutive months an individual is not eligible for the disregard again until he/she has been off assistance for twelve consecutive months.

(e) AFDC children age sixteen or seventeen who are terminated from AFDC cash assistance solely because they have ceased to attend school and have refused to register for WIN are eligible for medicaid while living in the home with a relative of specified degree on the same basis as a dependent child.

(2) Eligibility for special categories shall be determined as for the appropriate cash assistance category. See chapter 388-92 WAC. [Statutory Authority: RCW 74.08.090, 82-10-062 (Order 1801), § 388-83-130,

filed 5/5/82; 81-23-046 (Order 1721), § 388-83-130, filed 11/18/81; 81-16-033 (Order 1685), § 388-83-130, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-130, filed 4/27/81.]

WAC 388-83-135 Eligibility determination--Institutional. (1) Individuals are considered institutionalized if they reside in a medical facility at least a full calendar month.

(a) SSI/state supplement related individuals in medical facilities shall have their eligibility determined by comparing their gross income to the three hundred percent SSI cap (SSI benefit).

(b) If gross income is greater than three hundred percent of SSI cap, eligibility must be determined under the limited casualty program--medically needy in chapter 388-99 WAC.

(c) Allocation of recipient income is defined in WAC 388-83-140.

(d) For consideration of resources see chapter 388-92 WAC. The home becomes a resource when it is determined no longer the principal place of residence. See WAC 388-92-045(1).

(2) Individuals who reside in a medical facility less than a full calendar month shall have their eligibility determined as for a noninstitutionalized person. See chapter 388-92 WAC. [Statutory Authority: RCW 74.08.090, 82-10-062 (Order 1801), § 388-83-135, filed 5/5/82; 82-01-001 (Order 1725), § 388-83-135, filed 12/3/81; 81-16-033 (Order 1685), § 388-83-135, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-135, filed 4/27/81.]

WAC 388-83-140 Allocation of income--Institutionalized recipient. (1) All institutionalized recipients will retain a specified personal needs allowance.

(2) The AFDC related individual in a medical facility is eligible to receive an amount as a cash assistance payment sufficient to bring income up to the personal needs allowance.

(3) SSI related recipients may retain the current personal needs allowance plus wages received for work approved by the department as part of a training or rehabilitative program designed to prepare the individual for less restrictive placement. The total amount of wages received plus the personal needs allowance may not exceed the medically needy income level for one person. See WAC 388-99-020. There are no deductions for expenses of employment. When the total amount of wages received plus the initial personal needs allowance exceeds the one person medically needy income level, the excess wages are applied to the cost of care.

(4) In addition to the allocations in subsections (1) and (3) of this section, SSI related individuals residing in a medical facility throughout a calendar month are entitled to the following allocations of income as applicable:

(a) Maintenance needs of spouse not to exceed state supplement standard,

(b) Maintenance needs of family adjusted for number of family members living at home, but not to exceed

highest payment standard for a family of same size under AFDC,

(c) Amounts for incurred medical expenses not subject to third-party payment including but not limited to:

(i) Health insurance premiums, co-insurance or deductible charges,

(ii) Necessary medical care recognized under state law but not covered under medicaid.

(d) For a single person, maintenance of the home where the individual has been certified by a physician to need institutional care for no more than six consecutive months. See WAC 388-92-045(1)(a)(iv),

(i) Income thus exempted must be used to retain the independent living situation of an individual with no dependents through payment of such requirements as rent or mortgages, real estate taxes, insurance, gas, electricity, oil, water or sewer necessary to maintain the home. Also see chapter 388-28 WAC,

(ii) Up to one hundred eighty dollars per month may be exempted from the individual's actual income based on the verified actual cost to retain the home during six consecutive months,

(iii) The six-month period begins on the first of the month following date of admission for medicaid eligible recipients or the date of eligibility for individuals changing from private to medicaid, and ceases when the patient is discharged to an independent living arrangement or at the end of six months if the recipient has not been discharged,

(iv) CSO social service staff shall document initial need for the income exemption and review the individual's circumstances after ninety days. Also see chapter 388-28 WAC.

(5) Income remaining in subsections (1), (2), (3) or (4) of this section, will be used to compute payment of the participation amount (that income remaining after allocation of income) at the department rate. [Statutory Authority: RCW 74.08.090. 83-02-027 (Order 1930), § 388-83-140, filed 12/29/82; 82-10-062 (Order 1801), § 388-83-140, filed 5/5/82; 81-16-033 (Order 1685), § 388-83-140, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-140, filed 4/27/81.]

Chapter 388-84 WAC

MEDICAL CARE--APPLICATION

WAC

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| 388-84-005 | Repealed. |
| 388-84-010 | Repealed. |
| 388-84-015 | Repealed. |
| 388-84-020 | Repealed. |
| 388-84-025 | Repealed. |
| 388-84-105 | Medical assistance. |
| 388-84-110 | Application—Disposition. |
| 388-84-115 | Effective date of eligibility. |
| 388-84-120 | Application for state funded medical care. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-84-005 | Right to apply. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-84-005, filed 9/9/80; 79-06-034 (Order 1402), § 388-84-005, filed 5/16/79; Order 1233, § 388-84-005, filed |
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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.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

388-84-010 Disposition of application. [Order 1111, § 388-84-010, filed 4/15/76; Order 995, § 388-84-010, filed 12/31/74; Order 938, § 388-84-010, filed 5/23/74; Order 302, § 388-84-010, filed 9/6/68; Order 264 (part), § 388-84-010, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

388-84-015 Approval of application. [Statutory Authority: RCW 74.08.090. 81-06-003 (Order 1610), § 388-84-015, filed 2/19/81; Order 1203, § 388-84-015, filed 4/1/77; Order 938, § 388-84-015, filed 5/23/74; Order 879, § 388-84-015, filed 11/29/73; Order 711, § 388-84-015, filed 9/14/72; Order 695, § 388-84-015, filed 6/29/72; Order 591, § 388-84-015, filed 8/25/71; Order 435, § 388-84-015, filed 3/31/70; Order 302, § 388-84-015, filed 9/6/68; Order 264 (part), § 388-84-015, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

388-84-020 Denial of application. [Statutory Authority: RCW 74.08.090. 80-15-034 (Order 1554), § 388-84-020, filed 10/9/80; 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.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

388-84-025 Withdrawal. [Order 695, § 388-84-025, filed 6/29/72; Order 264 (part), § 388-84-025, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

WAC 388-84-005 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-84-010 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-84-015 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-84-020 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-84-025 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-84-105 Medical assistance. (1) All individuals wishing to make application for medical assistance or the limited casualty program shall have the opportunity to do so without delay.

(a) Applicants will be provided with:

(i) An explanation of the civil rights act,

(ii) Fair hearing information,

(iii) Information on early and periodic screening, diagnosis and treatment, when appropriate,

(iv) Information on family planning, when appropriate.

(b) The application shall be in writing; a verbal request is not an application.

(c) If death of applicant intervenes, the application may be completed by a relative or interested person(s).

(2) Individuals who receive cash assistance payment under AFDC, SSI or state supplement are eligible without a separate application.

(3) A spouse ineligible for SSI benefits solely because of the level of his/her income must apply individually for medical assistance.

(4) A resident of the state of Washington temporarily out of the state may make application directly to the community services office (CSO) in his/her area of the state through either an individual or agency acting in his/her behalf. [Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-84-105, filed 7/29/81; 81-10-014 (Order 1646), § 388-84-105, filed 4/27/81.]

WAC 388-84-110 Application--Disposition. (1) Timely determination standards are:

(a) Sixty days for applicants based on disability,

(b) Forty-five days for all other categories,

(c) Certain unusual circumstances beyond the administrative control of the CSO may delay a decision on an application.

(2) For cash assistance, approval of the medical assistance is concurrent.

(3) Applicants for medical assistance will be notified of departmental action by means of a notification of eligibility letter.

(4) Denial of the application for a categorically needy individual will follow cash assistance standards and criteria. The denial notice will include the right to a fair hearing.

(5) Withdrawal of an application will follow WAC 388-38-172. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-84-110, filed 12/3/81; 81-10-014 (Order 1646), § 388-84-110, filed 4/27/81.]

WAC 388-84-115 Effective date of eligibility. (1) The effective date of eligibility for medical assistance shall be no later than the third month before the month of application provided:

(a) The medical services received were covered.

(b) Individual would have been eligible had he/she applied.

(c) Applicant met all eligibility factors in either chapter 388-83 or 388-92 WAC.

(2) Eligibility effective date for medical assistance is the first day of the month if the individual was eligible at any time during that month.

(3) The month of application for SSI beneficiaries for purposes of determining eligibility for medical assistance shall be the month they apply for SSI. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-84-115, filed 12/3/81; 81-10-014 (Order 1646), § 388-84-115, filed 4/27/81.]

WAC 388-84-120 Application for state funded medical care. (1) Individuals ineligible for a categorical cash assistance program may be provided medical care under the state-funded continuing general assistance program.

(2) The effective date of eligibility for state-funded (GAU) medical care is concurrent with certification for cash assistance; except that medical care may be provided for no more than seven days prior to date of application for financial assistance to an otherwise eligible individual. The seven days shall not include Saturday, Sunday or legal holidays. The department may waive the seven-day rule if a person fails to apply for medical reasons or other good cause.

(3) Termination of state-funded medical occurs with termination of continuing general assistance grant.

(4) Individuals ineligible under subsections (1) or (3) of this section may be eligible under the limited casualty program--medically indigent program. See chapter 388-100 WAC. [Statutory Authority: RCW 74.08.090. 82-17-072 (Order 1868), § 388-84-120, filed 8/18/82; 82-01-001 (Order 1725), § 388-84-120, filed 12/3/81; 81-16-033 (Order 1685), § 388-84-120, filed 7/29/81; 81-10-014 (Order 1646), § 388-84-120, filed 4/27/81.]

Chapter 388-85 WAC

MEDICAL CARE--CERTIFICATION

WAC

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| 388-85-005 | Repealed. |
| 388-85-010 | Repealed. |
| 388-85-015 | Repealed. |
| 388-85-020 | Repealed. |
| 388-85-025 | Repealed. |
| 388-85-027 | Repealed. |
| 388-85-105 | Certification of eligibility. |
| 388-85-110 | SSI/state supplement termination. |
| 388-85-115 | Denied SSI applicants. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-85-005 | Certification document. [Order 952, § 388-85-005, filed 7/16/74; Order 264 (part), § 388-85-005, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
| 388-85-010 | Authorization procedure. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-85-010, filed 9/9/80; Order 1196, § 388-85-010, filed 3/3/77; Order 952, § 388-85-010, filed 7/16/74; Order 789, § 388-85-010, filed 4/12/73; Order 419, § 388-85-010, filed 12/31/69; Order 384, § 388-85-010, filed 8/27/69; Order 264 (part), § 388-85-010, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
| 388-85-015 | Period of certification. [Statutory Authority: RCW 74.08.090. 80-15-034 (Order 1554), § 388-85-015, filed 10/9/80; Order 1233, § 388-85-015, filed 8/31/77; Order 952, § 388-85-015, filed 7/16/74; Order 776, § 388-85-015, filed 3/1/73; Order 679, § 388-85-015, filed 5/10/72; Order 565, § 388-85-015, filed 5/19/71; Order 384, § 388-85-015, filed 8/27/69; Order 264 (part), § 388-85-015, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
| 388-85-020 | Redetermination of eligibility. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388- |

85-020, filed 9/9/80; 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.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

388-85-025 Notification—Initial certification, redetermination of eligibility and change of circumstances. [Order 712, § 388-85-025, filed 9/14/72.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

388-85-027 Effective date of change in eligibility. [Order 1137, § 388-85-027, filed 7/29/76.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

WAC 388-85-005 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-85-010 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-85-015 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-85-020 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-85-025 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-85-027 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-85-105 Certification of eligibility. Entitlement to medical assistance continues until the individual is determined ineligible for cash assistance.

(1) When eligibility for AFDC is terminated:

(a) For AFDC cash assistance due to increased income or increased hours from employment, medical assistance shall continue for four calendar months beginning with month of ineligibility.

(b) For AFDC cash assistance due to reaching state legal age of majority, a determination and a certification of eligibility for medical assistance under another program category will be made.

(c) Lack of cooperation in WIN or lack of school attendance is not an eligibility factor, redetermination of eligibility for medical assistance will be made according to appropriate cash program.

(2) Redetermination of eligibility for medical assistance shall be the same as for the related cash assistance program:

(a) For individuals under age eighteen not related to SSI, eligibility shall be redetermined every six months using AFDC financial criteria.

(b) For individuals in medical institutions eligibility shall be determined every twelve months.

(3) Any change in circumstances relating to the individual's financial or medical eligibility must be reported within twenty days to the CSO.

(4) Client notification procedures for any change of eligibility shall be the same as for cash assistance. [Statutory Authority: RCW 74.08.090. 83-02-027 (Order 1930), § 388-85-105, filed 12/29/82; 82-01-001 (Order 1725), § 388-85-105, filed 12/3/81; 81-16-033 (Order 1685), § 388-85-105, filed 7/29/81; 81-10-014 (Order 1646), § 388-85-105, filed 4/27/81.]

WAC 388-85-110 SSI/state supplement termination. (1) When an SSI/state supplemental beneficiary is terminated by SSA because of failure to meet blindness and disability criteria under Title XVI, medical assistance shall be terminated at the end of the second month following the month in which eligibility for these conditions ceases.

(a) If a timely request for a hearing under SSA jurisdiction has been filed by the individual and SSA continues the benefits, medical assistance would be continued concurrently.

(b) The CSO is not authorized to resubmit a request for a redetermination of blindness or disability for consideration of the medically needy program.

(c) If the individual presents medical evidence to the CSO, a referral to SSA is required.

(2) For individuals who are terminated by SSA for SSI/SSP financial benefits, financial eligibility and disability must be redetermined within thirty days for consideration for the limited casualty program.

(3) Institutional recipients must be notified in writing of termination. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-85-110, filed 12/3/81; 81-16-033 (Order 1685), § 388-85-110, filed 7/29/81; 81-10-014 (Order 1646), § 388-85-110, filed 4/27/81.]

WAC 388-85-115 Denied SSI applicants. When SSA denies an applicant solely because of failure to meet blindness and disability criteria under Title XVI such applicant shall not be eligible for the limited casualty program—medically needy.

(1) The CSO is not authorized to submit a request for determination for blindness or disability to the office of disability insurance benefits.

(2) If the individual presents medical evidence to the CSO, a referral to SSA is required. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-85-115, filed 12/3/81.]

Chapter 388-86 WAC

MEDICAL CARE--SERVICES PROVIDED

WAC

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| 388-86-005 | Services available to recipients of medical assistance. |
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- 388-86-085 Patient transportation.
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- 388-86-09601 Podiatric services.
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- 388-86-100 Durable medical equipment—Prosthetic devices.
- 388-86-105 Voluntary agency.
- 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.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-86-023 Chiropractic services. [Statutory Authority: RCW 74.08.090. 80-15-034 (Order 1554), § 388-86-023, filed 10/9/80; 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.] Repealed by 81-10-015 (Order 1647), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-86-096 Podiatry. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-86-096, filed 9/9/80.] Repealed by 81-10-016 (Order 1648), filed 4/27/81. Statutory Authority: RCW 74.08.090.

WAC 388-86-005 Services available to recipients of medical assistance. (1) For recipients of medical assistance (MA) categorically needy only, the department shall authorize early and periodic screening diagnosis and treatment services including dental, vision, and hearing 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. The department may authorize medically justified ambulance service and other approved transportation.

(2) The following additional services shall also be authorized when medically necessary: Anesthetization services; blood; dental services to EPSDT recipients; drugs and pharmaceutical supplies; eyeglasses and examination; hearing aids and examinations; oxygen; physical therapy services; private 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) The following medical services are not provided:

(a) Adult dental services, and

(b) Chiropractic services,

(c) Treatment of tuberculosis. See WAC 388-86-050(5).

(8) Treatment for obesity is not provided as part of the medical care program. The department will provide treatment for concurrent diseases and complications.

(9) 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).

(10) 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.

(11) 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.

(12) 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 ninety 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 CSO shall furnish the recipient the name and address of the nearest legal services office.

(13) The limited casualty program—medically needy is defined in chapter 388-99 WAC, and the limited casualty program—medically indigent is defined in chapter 388-100 WAC.

(14) The department has the authority to require a second opinion prior to the approval of any elective surgical procedure.

(15) The department may designate those surgical procedures which can be performed in other than a hospital in-patient setting. Where the patient has a medical condition which necessitates a hospital admission, prior approval by the local medical consultant must be obtained. [Statutory Authority: RCW 74.08.090. 83-01-056 (Order 1923), § 388-86-005, filed 12/15/82; 82-10-062 (Order 1801), § 388-86-005, filed 5/5/82; 82-01-001 (Order 1725), § 388-86-005, filed 12/3/81; 81-16-033 (Order 1685), § 388-86-005, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-005, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-005, filed 10/9/80; 78-06-081 (Order 1299), § 388-86-005, filed 6/1/78; 78-02-024 (Order 1265), § 388-86-005, filed 1/13/78; Order 994, § 388-86-005, filed 12/31/74; Order 970, § 388-86-005, filed 9/13/74; Order 911, § 388-86-005, filed 3/1/74; Order 858, § 388-86-005, filed 9/27/73; Order 781, § 388-86-005, filed 3/16/73; Order 738, § 388-86-005, filed 11/22/72; Order 680, § 388-86-005, filed 5/10/72; Order 630, § 388-86-005, filed 11/24/71; Order 581, § 388-86-005, filed 7/20/71; Order 549, § 388-86-005, filed 3/31/71, effective 5/1/71; Order 453, § 388-86-005, filed 5/20/70, effective 6/20/70; Order 419, § 388-86-005, filed 12/31/69; Order 264 (part); § 388-86-005, filed 11/24/67.]

WAC 388-86-008 Patient overutilization. (1) Whenever payment records and other information indicate that recipient utilization is excessive or inappropriate with reference to medical need, 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 or unnecessary utilization of medical assistance as defined by community practices and standards;

(e) Avoid excessive utilization of prescription medications.

Excessive utilization of prescription medications will be determined from published current medical and pharmacological references to include Physicians' Desk Reference published by Medical Economics Company, Oradell, New Jersey 07649; or Facts and Comparisons

published by Facts and Comparisons, Inc., 12011 Marine Avenue, Suite 220, St. Louis, Mo 63141; or The Pharmacological Basis of Therapeutics published by Macmillan Publishing Co., 866 Third Avenue, New York, NY 10022.

(2) The individual will be given written notice of his/her excessive or inappropriate utilization and will be requested to select a single physician and/or pharmacy within thirty days. The notice will include the individual's right to request a fair hearing within ninety days if he/she disagrees with the department's action. The notice will also advise the individual that failure to cooperate in this procedure will necessitate the department designating a physician and/or pharmacy for the individual or redirecting the individual's medical coupons to the CSO until selection of a physician and/or pharmacy is made. Medical coupons issued to the individuals will be imprinted with the message "RESTRICTED" to facilitate identification by providers. This restriction will be extended to all individuals listed on the "RESTRICTED" coupons.

(3) Medical services received by restricted individuals will be monitored and payment for services and prescriptions denied unless authorized by the selected designated physician. Providers may bill recipients for these denied services.

(4) In the event of a bona fide emergency, the individual may be seen by a physician other than the one selected. The primary physician may also refer the individual to a specialist when necessary. [Statutory Authority: RCW 74.08.090. 82-17-069 (Order 1865), § 388-86-008, filed 8/18/82; 82-01-001 (Order 1725), § 388-86-008, filed 12/3/81; 80-13-020 (Order 1542), § 388-86-008, filed 9/9/80; 78-02-024 (Order 1265), § 388-86-008, filed 1/13/78.]

WAC 388-86-012 Audiometric services. Evaluation of hearing by audiometric equipment is available to categorically needy recipients of medicaid when administered by an approved audiologist or a physician. These evaluations must be related to the provision of a hearing aid or to a disease process and are not available for routine or group screenings. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-86-012, filed 12/3/81; 81-06-003 (Order 1610), § 388-86-012, filed 2/19/81; 80-13-020 (Order 1542), § 388-86-012, filed 9/9/80; 78-02-024 (Order 1265), § 388-86-012, filed 1/13/78; Order 1202, § 388-86-012, filed 4/1/77.]

WAC 388-86-015 Blood. The department shall provide for purchase of needed whole blood or blood derivatives, subject to limitations as set forth in WAC 388-87-045. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-86-015, filed 12/3/81; Order 335, § 388-86-015, filed 2/3/69; Order 264 (part), § 388-86-015, filed 11/24/67.]

WAC 388-86-020 Dental services. (1) The department shall provide dental services to recipients of EPSDT.

(2) Services will include:

(a) Initial and periodic oral examinations.
 (b) Treatment necessary for the relief of pain and infection, restoration of teeth, and maintenance of dental health.

(c) Orthodontic treatment is defined as the use of any appliance, intra oral or extra oral, removable or fixed, or any surgical procedure designed to move teeth. The following limitations apply:

(i) Prior approval must be obtained from the office of medical policy and procedure,

(ii) Treatment is limited to medically necessary services as defined in chapter 388-80 WAC.

(3) Except for services as defined in WAC 388-86-027 group screening for dental services is not permitted under the program. [Statutory Authority: RCW 74.08.090. 82-23-005 (Order 1900), § 388-86-020, filed 11/4/82; 81-10-015 (Order 1647), § 388-86-020, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-020, filed 10/9/80; 79-06-034 (Order 1402), § 388-86-020, filed 5/16/79; 78-02-024 (Order 1265), § 388-86-020, filed 1/13/78; Order 1162, § 388-86-020, filed 10/13/76; Order 1112, § 388-86-020, filed 4/15/76; Order 938, § 388-86-020, filed 5/23/74; Order 738, § 388-86-020, filed 11/22/72; Order 696, § 388-86-020, filed 6/29/72; Order 581, § 388-86-020, filed 7/20/71; Order 453, § 388-86-020, filed 5/20/70, effective 6/20/70; Order 385, § 388-86-020, filed 8/27/69; Order 264 (part), § 388-86-020, filed 11/27/67.]

WAC 388-86-021 Dentures. The department will provide to the extent of these rules dentures to recipients of medical assistance and the limited casualty program that includes only fabrication and fitting. All denture requests require prior approval. [Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-86-021, filed 7/29/81.]

WAC 388-86-023 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-86-027 Early and periodic screening, diagnosis and treatment of eligible individuals under twenty-one years of age. (1) To the extent provided under these rules, the department will make available to categorically needy individuals under twenty-one years of age, early and periodic screening and diagnosis to ascertain their physical and/or mental defects and will authorize treatment to correct or ameliorate the defects and chronic conditions discovered thereby. 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 who have been authorized by the division of medical assistance to provide an unclothed physical examination including at least:

- (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 examination, 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 duration and scope of care available to other recipients of medical assistance, except regardless of any such limitations, treatment for visual and hearing defects including eyeglasses and hearing aids, 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, subject to such utilization controls as may be imposed by the department.

(d) See WAC 388-86-005 and 388-86-020 for limitations of the dental program, WAC 388-86-030 for eyeglasses and examinations and 388-86-040 for management of hearing defects.

(2) EPSDT is available to all individuals under twenty-one years of age who are determined to be categorically needy. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-86-027, filed 12/3/81; 81-10-015 (Order 1647), § 388-86-027, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-027, filed 10/9/80; 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) Under the limited casualty program only one refraction and one pair of glasses will be provided during a twelve-month period.

(3) 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).

(4) 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 chapter 388-86 WAC.

(5) A choice of frames listed in current division of medical assistance numbered memoranda is offered recipients. Frames are not provided for cosmetic effect or psychological support.

(6) Sunglasses, photochromic or varalux type lenses are not provided.

(7) Two pair of glasses in lieu of bifocal or trifocal lenses are not provided.

(8) Contact lenses and orthoptics therapy are not provided.

(9) Except for services as defined in WAC 388-86-027 group screening for eyeglasses is not permitted under the program. [Statutory Authority: RCW 74.08.090. 82-23-005 (Order 1900), § 388-86-030, filed 11/4/82; 81-16-033 (Order 1685), § 388-86-030, filed 7/29/81; 80-13-020 (Order 1542), § 388-86-030, filed 9/9/80; 79-01-002 (Order 1359), § 388-86-030, filed 12/8/78; 78-06-087 (Order 1301), § 388-86-030, filed 6/2/78; Order 1233, § 388-86-030, filed 8/31/77; Order 1203, § 388-86-030, filed 4/1/77; Order 1112, § 388-86-030, filed 4/15/76; Order 994, § 388-86-030, filed 12/31/74; Order 738, § 388-86-030, filed 11/22/72; Order 385, § 388-86-030, filed 8/27/69; Order 264 (part), § 388-86-030, filed 11/24/67.]

WAC 388-86-035 Family planning. (1) The department shall make known to clients the availability of family planning services. The department shall provide to eligible categorically needy recipients necessary physicians' services, clinic or hospital services, supplies and drugs needed in conjunction with family planning.

(2) Under the limited casualty program—medically needy only physicians' services and supplies will be provided. [Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-86-035, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-035, filed 4/27/81; Order 1203, § 388-86-035, filed 4/1/77; Order 781, § 388-86-035, filed 3/16/73; Order 264 (part), § 388-86-035, filed 11/24/67.]

WAC 388-86-040 Hearing aids. (1) The department shall provide to categorically needy recipients:

(a) One new hearing aid covered by a one-year warranty under the following conditions:

(i) On prescription of an otolaryngologist, or the attending physician where no otolaryngologist is available in the community, 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) A one-time repair of a state purchased or privately owned hearing aid when covered by a ninety-day warranty.

(2) Hearing aid evaluations are authorized on an individual basis by the CSO. Group screening for hearing aids is not permitted under the program.

(3) 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.

(4) Requests for hearing aids on behalf of nursing home residents must be reviewed by a department nursing home consultant.

(5) After expiration of warranties, the owner is responsible for repairs and for purchase of batteries, any attachments and replacements.

(6) Individuals under age twenty-one must be referred to the crippled children's service conservation of hearing program.

(7) 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.

(8) Hearing aids are not provided to recipients of continuing general assistance grants and the limited casualty program. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-86-040, filed 12/3/81; 81-16-033 (Order 1685), § 388-86-040, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-040, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-040, filed 10/9/80; 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 furnished by a Title XVIII certified home health agency. To qualify for home health services the patient must be in the care of an attending physician who has authorized the plan of treatment, which was developed for the individual patient. Approval by the office of the medical director is required for any care extending beyond the limits established by the division of medical assistance. [Statutory Authority: RCW 74.08.090. 82-21-024 (Order 1891), § 388-86-045, filed 10/13/82; 80-13-020 (Order 1542), § 388-86-045, filed 9/9/80; 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 the recipient will have free choice of hospitalization.

(2) Certain hospitalization services covered by the program require approval of the medical consultant.

(a) Prior approval for nonemergent surgery;

(b) Admission and length of stay for recipients of the GAU and limited casualty—medically indigent programs;

(c) Retroactive certification and out-of-state care including bordering cities.

(3) The Washington state professional standards review organization (WSPSRO) will certify admission, length of stay and/or services for the categorically needy and limited casualty—medically needy recipients.

(4) 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 (as defined in WAC 388-80-005 and 388-87-013). 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. When hospitalization of a recipient of GAU or limited casualty program—medically indigent exceeds the maximum number of days specified in PAS, an extension request shall be presented with adequate justification by the attending physician to the chief, office of medical policy and procedure or his designee within sixty days of final service.

(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 categorically needy recipients age sixty-five and older. Other age groups are covered under the Involuntary Treatment Act and/or other state funded programs.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) A deductible not to exceed one-half the payment the department makes for the first day of inpatient hospital care for each admission is the responsibility of the limited casualty program—medically needy recipient. [Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-86-050, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-050, filed 4/27/81; 80-13-020 (Order 1542), § 388-86-050, filed 9/9/80; 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 388-86-055 Laboratory services. The medical consultant's approval is not required for general laboratory procedures.

(1) Laboratory services provided to an inpatient in a hospital will be paid as a part of the total charges submitted for inpatient care in the hospital.

(2) Laboratory services provided on an outpatient basis by physicians in their offices, independent laboratories, or by exclusive service contract with the department will be provided to recipients and paid as specified in WAC 388-87-075. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-86-055, filed 12/3/81; Order 264 (part), § 388-86-055, 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 assistance recipient under SSI, state supplement or AFDC and to an eligible recipient of a state funded continuing general assistance grant. A recipient of the limited casualty program may be provided mental health center services. 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.

(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 subsection (4)(c), (d), and (e) of this section) 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. 81-16-033 (Order 1685), § 388-86-067, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-067, filed 4/27/81; 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 388-86-071 Private duty nursing services.

Private duty nursing services may be approved when:

(1) The individual would otherwise be institutionalized;

(2) The care is provided in a noninstitutional setting;

(3) The patient requires more individual and continuous nursing care than is available through home health nursing services;

(4) Provided by a registered or licensed practical nurse under the direction of a physician;

(5) The services are the least costly alternative to care in a medical institution; and

(6) Prior approval is obtained from the office of the medical director. [Statutory Authority: RCW 74.08.090. 83-01-056 (Order 1923), § 388-86-071, filed 12/15/82.]

WAC 388-86-075 Outpatient and emergency care.

(1) No authorization is required for categorically needy recipients 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) A recipient of the limited casualty program-medically needy may receive services without approval, and is required to make a copayment not to exceed three dollars for each emergency room visit.

(3) A recipient of the limited casualty program-medically indigent must have medical consultant approval for emergency room services. [Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-86-075, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-075, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-075, filed 10/9/80; 79-06-034 (Order 1402), § 388-86-075, filed 5/16/79; Order 1196, § 388-86-075, filed 3/3/77; Order 1112, § 388-86-075, filed 4/15/76; Order 696, § 388-86-075, filed 6/29/72; Order 566, § 388-86-075, filed 5/19/71; Order 264 (part), § 388-86-075, filed 11/24/67.]

WAC 388-86-080 Oxygen service. (1) Oxygen shall be made available through contract to include regulators, humidifiers, masks and related supplies to recipients under age sixty-five in their own homes when requested by the attending physician and approved by the medical consultant.

(2) Oxygen and related supplies may be obtained from contract supplier or other oxygen supplier at less cost for recipients in skilled nursing homes on the request of the attending physician. See WAC 388-87-080 for payment process.

(3) Recipients age sixty-five and over and others eligible for part B medicare benefits who are not in a nursing home or hospital shall have oxygen and equipment for its administration available only under medicare. Such persons are not eligible for state owned equipment. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-86-080, filed 12/3/81; 81-06-003 (Order 1610), § 388-86-080, filed 2/19/81; Order 1196, § 388-86-080, filed 3/3/77; Order 1077, § 388-86-080, filed 12/24/75; Order 335, § 388-86-080, filed 2/3/69; Order 303, § 388-86-080, filed 9/6/68; Order 264 (part), § 388-86-080, filed 11/24/67.]

WAC 388-86-085 Patient transportation. (1) The department will assure the availability of necessary transportation for recipients to and from medical care services covered under the medical assistance program in accordance with the following guidelines:

(a) "Patient transportation" shall be provided only when other sources of transportation are not available.

(b) Transportation shall be provided for the least expensive available means suitable to the recipient's medical need.

(c) Transportation shall be provided only to medical care within the local community unless necessary medical care is not available locally.

(2) Ambulance transportation may be provided when medical necessity is clearly demonstrated and the physical condition of the recipient is such that the use of any other method of transportation is inadvisable.

(3) The following policies apply to the provision of air ambulance transportation:

(a) Air ambulance transportation may be provided when:

(i) Necessary medical treatment is not available locally; and

(ii) The emergent need for medical treatment and the physical condition of the recipient is such that the use of any other method of transportation is inadvisable.

(b) Intrastate air ambulance transportation must be approved by the local medical consultant.

(c) Out-of-state air ambulance transportation must be approved by the medical director, office of medical policy and procedure.

(4) Cabulance transportation may be provided when medical necessity is clearly demonstrated and the physical condition of the recipient is such that any less specialized means of transportation is inadvisable. Approval by the local medical consultant is required.

(5) Transportation by taxi may be provided only when approved by the local medical consultant. "Taxi shared ride service" must be utilized when transportation can be scheduled at least four hours in advance and the "shared ride service" is available in the community.

(6) Transportation by private automobile other than owned by recipient is payable at rates established by the department when approved through the community service office.

(7) Transportation by intercity bus may be provided when approved through the local community service office.

(8) The following policies apply to the provision of commercial air transportation:

(a) Commercial air transportation may be provided when:

(i) Transportation is medically necessary; and

(ii) Necessary medical treatment is not available locally; and

(iii) The physical condition of the recipient is such that the use of any other method of transportation is inadvisable.

(b) Intrastate commercial air transportation requires prior approval by the local medical consultant.

(c) Out-of-state commercial air transportation requires prior approval through the local medical consultant and the medical director, office of medical policy and procedure.

(9) All patient transportation services provided to recipients of the limited casualty program—medically indigent require approval of the local medical consultant. [Statutory Authority: RCW 74.08.090. 82-02-022 (Order 1743), § 388-86-085, filed 12/30/81; 81-16-033 (Order 1685), § 388-86-085, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-085, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-085, filed 10/9/80; 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, and

(5) Is performed by a registered physical therapist or physiatrist and has approval by the local medical consultant.

(6) Physical therapy is not provided under the limited casualty program. [Statutory Authority: RCW 74.08.090, 81-16-033 (Order 1685), § 388-86-090, filed 7/29/81; 80-13-020 (Order 1542), § 388-86-090, filed 9/9/80; 78-02-024 (Order 1265), § 388-86-090, filed 1/13/78; Order 1202, § 388-86-090, filed 4/1/77; Order 1151, § 388-86-090, filed 9/8/76; Order 911, § 388-86-090, filed 3/1/74; Order 781, § 388-86-090, filed 3/16/73; Order 474, § 388-86-090, filed 8/19/70; Order 385, § 388-86-090, filed 8/27/69; Order 303, § 388-86-090, filed 9/6/68; Order 264 (part), § 388-86-090, filed 11/24/67.]

WAC 388-86-095 Physicians' services. The department shall purchase the services of physicians participating in the program on a fee-for-service or contract basis subject to the exceptions and restrictions listed as follows.

(1) Physicians' services are provided through contract agreements for certain voluntary child care agencies and maternity homes.

(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 forty-eight 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 chapter 388-24 WAC.

(ii) Determination of whether an individual's health will or will not permit his return to his home, see chapter 388-28 WAC.

(iii) Request by the claimant or examiner in a fair hearing procedure, see chapter 388-08 WAC.

(iv) Foster home placement, see chapter 388-70 WAC.

(v) Adoptive home placement, see chapter 388-70 WAC.

(vi) Employability for WIN program, see chapter 388-24 WAC.

(vii) Incapacity for GAU program, see chapter 388-37 WAC.

(3) 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) 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.

(b) 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.

(4) Limitations on payment for physicians' services:

(a) Payment for physicians' calls for nonemergent conditions in a skilled nursing facility or an intermediate care facility, is limited to two calls per month. Requests for payment for additional visits must be justified at the time the billing is submitted by the physician.

(b) Payment for hospital calls is limited to one call per day. This is applicable to other than flat fee care.

(c) Individual outpatient psychotherapy provided by a psychiatrist shall be limited to one hour per month or equivalent combinations. Up to a maximum of two hours psychotherapy may be authorized when justified during the first month of treatment. Subdivisions of (4)(a) and (b) of this section, also apply unless other rules take precedence. See WAC 388-86-067(1) for service provided by a contracting mental health center.

(5) All surgical procedures require approval by the medical consultant.

(6) Minor surgery and diagnostic procedures performed in a physician's office do not require prior approval.

(7) No payment will be made for cosmetic, reconstructive or plastic surgery which is defined as surgery performed to revise or change the texture, configuration or relationship of structure with continuous structure when the purpose is primarily psychological and will not correct or materially improve body function, or is intended to alter any part of the body which could be considered to be "normal" within broad range of variation for function, age, ethnic, or familial origin.

(8) A recipient of public assistance is not required to obtain medical care in the county of his residence.

(9) For limitations on out-of-state physicians' services see WAC 388-86-115. [Statutory Authority: RCW 74.08.090, 82-24-072 (Order 1920), § 388-86-095, filed 12/1/82; 81-16-033 (Order 1685), § 388-86-095, filed 7/29/81; 81-06-003 (Order 1610), § 388-86-095, filed 2/19/81; 80-15-034 (Order 1554), § 388-86-095, filed 10/9/80; 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 388-86-096 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-86-09601 Podiatric services. (1) Medically necessary podiatric services shall be provided to include:

(a) Evaluation, diagnosis, and treatment of skin disease, infections, inflammation, ulcers, and symptomatic conditions such as bursitis, osteoarthritis and tendonitis.

(b) Reductions of fractures and dislocations, and treatment of sprains and strains.

(c) Surgery for structural and pathological ailments such as bunions, exostosis, hammertoes, neuromas, and ingrown toenails.

(d) Initial diagnostic services in connection with conditions whose subsequent treatment would be excluded as routine palliative care.

(e) One visit every six months may be permitted for debridement and cutting of mycotic toenails.

(2) Elective surgery requires prior approval of the medical director or designee. Where less expensive, more conservative treatment is available, surgery will not be approved.

(3) The following services shall be excluded:

(a) Routine foot care that includes medically unnecessary removal of corns, warts, or calluses, trimming of nails and other hygienic and preventive care except as specified in subsection (4) of this section.

(b) Treatment of flat foot.

(c) Treatment undertaken to correct a subluxated structure of the foot as an isolated entity.

(d) Supportive devices for the feet, such as orthopedic shoes.

(e) Procedures regarded as experimental.

(4) Where a person has a severe systemic condition that would result in circulatory embarrassment or desensitization in the legs or feet, more frequent foot care may be provided when:

(a) The performance of such procedures by unskilled person might pose a hazard.

(b) The severity of the condition has been established by clinical or physical findings.

(c) Such care has received prior approval of the medical director or designee. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-86-09601, filed 12/3/81; 81-16-033 (Order 1685), § 388-86-09601, filed 7/29/81.]

WAC 388-86-098 Speech therapy services. (1) Speech therapy may be provided for conditions which are the result of medically recognized diseases and defects if medically necessary and otherwise covered by this program. Such conditions may include aphasia; sudden bilateral on-set of hearing loss; rapid progressive bilateral loss and post laryngectomy surgery.

(2) The following conditions apply to approval of speech therapy:

(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).

(3) Speech and language therapy is not provided under the limited casualty program. [Statutory Authority: RCW 74.08.090. 82-10-062 (Order 1801), § 388-86-098, filed 5/5/82; 82-01-001 (Order 1725), § 388-86-098, filed 12/3/81; 81-16-033 (Order 1685), § 388-86-098, filed 7/29/81; 78-02-024 (Order 1265), § 388-86-098, filed 1/13/78; Order 1202, § 388-86-098, filed 4/1/77.]

WAC 388-86-100 Durable medical equipment—Prosthetic devices. (1) The department shall authorize the purchase or rental of durable medical equipment, prosthetic devices, and other nonreusable 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) Prior approval by the medical director of the division of medical assistance is required for purchase of medical equipment or prosthetic devices costing one thousand dollars or more, except as described in subsection (4) of this section.

(3) Prior approval by the local medical consultant is required for:

(a) Purchase of medical equipment or prosthetic devices costing less than one thousand dollars, except as described in subsections (4) and (5) of this section,

(b) All rentals and repairs of medical equipment.

(4) No approval is required for the purchase of external braces involving the neck, trunk and extremities; nor pressure garments, support hose, canes, or wood crutches.

(5) 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.

(6) 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.

(7) Medical equipment and supplies purchased by the department become the property of the recipient. [Statutory Authority: RCW 74.08.090. 82-17-072 (Order 1868), § 388-86-100, filed 8/18/82; 81-16-033 (Order 1685), § 388-86-100, filed 7/29/81; 81-06-003 (Order 1610), § 388-86-100, filed 2/19/81; 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 388-86-105 Voluntary agency. Medical care shall be provided for a child or unmarried mother certified by the department as eligible and receiving the services of a voluntary agency or maternity home. [Statutory Authority: RCW 74.08.090. 81-06-003 (Order 1610), § 388-86-105, filed 2/19/81; Order 1151, § 388-86-105, filed 9/8/76; Order 482, § 388-86-105, filed 9/29/70, effective 11/1/70; Order 463, § 388-86-105, filed 6/23/70; Order 264 (part), § 388-86-105, filed 11/24/67.]

WAC 388-86-112 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.

(3) These services are not provided under the limited casualty program. [Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-86-112, filed 7/29/81; 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) or limited casualty program—medically needy 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) Bordering cities listed in chapter 388-82 WAC are not considered "out-of-state" and are excluded from these provisions. When a recipient goes to another state, other than the specified bordering cities, specifically for the purpose of obtaining medical care that is available in

the state of Washington, only emergency care will be provided by the state of Washington.

(3) State funded medical care is not provided out-of-state. Medical services in designated bordering cities may be authorized.

(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) Medical assistance may be provided only in areas of Canada that border on the United States when no other resources are available. [Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-86-115, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-115, filed 4/27/81; 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. A recipient of a continuing general assistance grant who cannot be related to a federal aid category is eligible to receive the same scope of care (WAC 388-86-005) as a recipient of medicaid, except that no care will be provided outside the state of Washington other than in designated bordering cities as specified in chapter 388-82 WAC, and shall be subject to the following medical program limitations. Continuing general assistance medical coupons bear the imprint "GAU."

(1) Elective hospital admissions and elective surgery requests require prior medical consultant approval.

(2) Criteria used to determine that the proposed surgery is elective are:

(a) Medical necessity must be established. Definition in chapter 388-80 WAC applies.

(b) Procedure cannot reasonably be delayed.

(3) Prescribed drugs are limited to specific therapeutic classifications. Lists are published through the Drug Formulary and/or official memoranda.

(4) Mental health services will be provided only in community mental health centers.

(5) Hearing aids are not provided.

(6) Covered medical care services may be provided for no more than seven days prior to the date of application. The department may waive the seven-day rule if a person fails to apply for medical reasons or other good cause. [Statutory Authority: RCW 74.08.090. 82-18-062 (Order 1869), § 388-86-120, filed 9/1/82; 81-16-033 (Order 1685), § 388-86-120, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-120, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-120, filed 10/9/80; 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**

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-87-047 | Payment—Chiropractic services. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-87-047, filed 9/9/80; Order 1203, § 388-87-047, filed 4/1/77; Order 1166, § 388-87-047, filed 10/27/76; Order 1112, § 388-87-047, filed 4/15/76; Order 386, § 388-87-047, filed 8/27/69.] Repealed by 81-10-016 (Order 1648), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
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WAC 388-87-005 Payment—Eligible providers defined. (1) Eligible providers are:

- (a) Persons currently licensed by the state of Washington to practice medicine, osteopathy, dentistry, optometry, podiatry, nursing, or physical therapy,
- (b) A hospital currently licensed by the department,
- (c) A nursing home currently licensed and classified by the department as a skilled nursing or intermediate care facility,
- (d) A licensed pharmacy,
- (e) A home health services agency certified by the department,
- (f) An independent (outside) laboratory certified to participate under Title XVIII or determined currently to meet the requirements for such participation,

(g) A company or individual (not excluded in subsection (3) of this section) supplying items such as ambulance service, oxygen, eyeglasses, other appliances, or approved services,

(h) A provider of screening services that has signed an agreement with the department to provide such services to eligible individuals in the EPSDT program,

(i) A certified center for the detoxification of acute alcoholic conditions,

(j) A certified outpatient clinical community mental health center, an approved inpatient psychiatric facility, drug treatment center, or Indian health service clinic,

(k) A medicare certified rural health clinic,

(l) Approved prepaid health maintenance, prepaid health plans and/or health insuring organizations,

(m) An out-of-state provider of services listed in subsection (1) (a) through (f) of this section, with comparable qualifications in state of residence or location of practice.

(2) 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:

- Chiropractors
- 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.

[Statutory Authority: RCW 74.08.090. 82-10-062 (Order 1801), § 388-87-005, filed 5/5/82; 82-01-001 (Order 1725), § 388-87-005, filed 12/3/81; 81-16-032 (Order 1684), § 388-87-005, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-005, filed 4/27/81; 80-13-020 (Order 1542), § 388-87-005, filed 9/9/80; 78-10-077 (Order 1346), § 388-87-005, filed 9/27/78; Order 1233, § 388-87-005, filed 8/31/77; Order 1112, § 388-87-005, filed 4/15/76; Order 994, § 388-87-005, filed 12/31/74; Order 930, § 388-87-005, filed 4/25/74; Order 739, § 388-87-005, filed 11/22/72; Order 386, § 388-87-005, filed 8/27/69; Order 264 (part), § 388-87-005, filed 11/27/67.]

WAC 388-87-010 Conditions of payment—General.

(1) The department shall be responsible for payment of service rendered to a recipient only when the services are within the scope of care, properly authorized and the recipient certified as eligible.

(2) The fees and rates established by the department shall constitute the maximum allowable payment for approved medical care and services provided to recipients by the providers, except as specified in chapter 388-86 WAC.

(3) When a provider of service furnishes services to an 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) Payment for any service furnished to a recipient by a provider may not be made to or through a factor who advances money to that provider for accounts receivable.

(5) 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.

(6) 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 chapter 388-83 WAC.

(7) Payment for care under the medical assistance or limited casualty-medically needy 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 need not be eligible at the time of actual application. Medical services that require approval must be approved by the CSO medical consultant for the retroactive period.

(8) Payment for care under the limited casualty program-medically indigent and GAU may be retroactive for seven days prior to the date of application if applicant is otherwise eligible. Medical services that require approval must be approved by the CSO medical consultant for the retroactive period.

(9) A claim by a provider for payment for services rendered to a person who subsequently is determined to be ineligible at the time service was rendered may be paid under the following conditions only:

(a) The ineligible person must have been certified as both financially and medically eligible,

(b) Payment has not been made from sources outside the department,

(c) A request for such payment must be submitted and approved by the division of medical assistance.

(10) Payment for medically necessary services shall be made on the basis of usual and customary charges or the rates established by the department, whichever is lower.

(11) Payment for well-baby care is not authorized except as provided under the EPSDT program. See WAC 388-86-027.

(12) The department will not reimburse a hospital for the deductible amount the limited casualty program-medically needy recipient is required to pay for each hospital admission.

(13) The department will not reimburse a hospital for emergency room copayment amounts that the limited casualty program-medically needy recipient is required to pay. [Statutory Authority: RCW 74.08.090. 82-01-

001 (Order 1725), § 388-87-010, filed 12/3/81; 81-16-032 (Order 1684), § 388-87-010, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-010, filed 4/27/81; 80-13-020 (Order 1542), § 388-87-010, filed 9/9/80; 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 388-87-011 Conditions of payment--Medicare deductible and coinsurance--When paid by department. The department shall be responsible for the deductible and coinsurance amounts for recipients participating in the benefits of Parts A and B of Medicare (Title XVIII of the Social Security Act) when the following conditions are met:

(1) Total combined reimbursement to the provider from Medicare and the department does not exceed the department's fee schedule, see WAC 388-87-010.

(2) Services provided are within the scope of the medical program.

(3) The provider accepts assignment for Medicare payment. [Statutory Authority: RCW 74.08.090. 81-10-016 (Order 1648), § 388-87-011, filed 4/27/81; Order 1112, § 388-87-011, filed 4/15/76; Order 1015, § 388-87-011, filed 3/27/75.]

WAC 388-87-012 Conditions of payment--Consultant's and specialist's services and fees. (1) When services of a consultant or specialist are required, whether the patient has been referred by a physician or is being treated by the specialist as the attending physician, the approval of the medical consultant is not necessary. This rule applies to consultation or treatment in the home, office, or medical institution.

(2) A copy of the consultation report may be requested.

(3) When a specialist treats a patient for minor conditions or for chronic conditions of long duration, the fee for initial and subsequent office calls is reimbursed at the department rate.

(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.

(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 policy and procedure. (See WAC 388-87-025).

(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. [Statutory Authority: RCW 74.08.090. 81-16-032 (Order 1684), § 388-87-012, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-012, filed 4/27/81; 79-01-002 (Order 1359), § 388-87-012, filed 12/8/78; 81-10-016 (Order 1648), § 388-87-012, filed 4/27/81; 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 for nonemergent conditions from the local medical consultant before payment is made for services provided to recipients of the state funded programs.

(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 termination of 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 days 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.

(4) A deductible not to exceed one-half the payment the department makes for the first day of inpatient hospital care for each admission is the responsibility of the limited casualty program--medically needy recipient. [Statutory Authority: RCW 74.08.090. 81-16-032 (Order 1684), § 388-87-013, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-013, filed 4/27/81; 80-13-020 (Order 1542), § 388-87-013, filed 9/9/80; 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 begins with the date of certification for retroactive medical coverage approved for payment. See chapter 388-80 WAC for definition of retroactive. [Statutory Authority: RCW 74.08.090. 81-16-032 (Order 1684), § 388-87-015, filed 7/29/81; 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) Certain services to recipients on medical assistance, limited casualty program, and continuing general assistance require approval.

(2) All surgical procedures require approval by the local medical consultant - see WAC 388-86-095 and 388-86-110. Only the surgeon need obtain written approval for surgery. The services of the surgical assistant and the anesthesiologist or anesthetist do not require approval. Their billings for payment, however, must show the patient's diagnosis and a cross-reference to the surgeon.

(3) 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.

(4) Drugs not listed in the department's formulary or any single prescription exceeding the maximum limit established - see WAC 388-91-020.

(5) Admission to a hospital - see WAC 388-87-070 and 388-86-050.

(6) Initial provision of oxygen service for a recipient under sixty-five years of age in his own home. Repeat deliveries of oxygen for the same illness do not require medical consultant approval - see WAC 388-86-080 and 388-87-080.

(7) Approval of physical therapy on an outpatient basis or in a nursing home when prescribed by the attending physician - see WAC 388-86-090.

(8) For certain bordering cities and out-of-state medical care - see WAC 388-82-030 and 388-86-115.

(9) For consultant or specialist referral when such referrals exceed two such consultants or specialists - see WAC 388-86-095.

(10) Respiratory therapy in excess of five treatments requires approval.

(11) Speech therapy requires an initial evaluation; both the evaluation and subsequent therapy require prior approval - see WAC 388-86-098.

(12) Psychological evaluation requires prior approval and is provided in connection with medical diagnosis and treatment (see WAC 388-87-012).

(13) For certain patient transportation. See WAC 388-86-085. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-87-025, filed 12/3/81; 81-16-032 (Order 1684), § 388-87-025, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-025, filed 4/27/81; 80-15-034 (Order 1554), § 388-87-025, filed 10/9/80; 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 office of the medical director:

(a) Nonemergent surgical procedures - see WAC 388-86-095;

(b) Prosthetic devices and durable medical equipment and nonreusable medical equipment costing more than one thousand dollars;

(c) All out-of-state air transportation.

(2) With the exception of prosthetic devices and major appliances, subsection (1) of this section, 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 where there are significant handicapping factors:

(a) The purchase of a hearing aid when the 50 decibel loss in the better ear is not met; or

(b) A second hearing aid and/or a replacement.

(4) Private duty nursing services require prior approval of the office of the medical director. [Statutory Authority: RCW 74.08.090. 83-01-056 (Order 1923), § 388-87-027, filed 12/15/82; 82-01-001 (Order 1725), § 388-87-027, filed 12/3/81; 81-16-032 (Order 1684), § 388-87-027, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-027, filed 4/27/81; 80-13-020 (Order 1542), § 388-87-027, filed 9/9/80; 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 388-87-030 Responsibility of physician--Patient admitted to hospital. Admission to a hospital shall be requested by the attending physician. The signature of the attending physician on the department's hospital invoice is not required; however, the hospital must enter the diagnosis, justification for admission, and the physician's name. [Statutory Authority: RCW 74.08.090. 81-16-032 (Order 1684), § 388-87-030, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-030, filed 4/27/81; 80-13-020 (Order 1542), § 388-87-030, filed 9/9/80; Order 1233, § 388-87-030, filed 8/31/77; Order 911, § 388-87-030, filed 3/1/74; Order 879, § 388-87-030, filed 11/29/73; Order 837, § 388-87-030, filed 7/26/73; Order 386, § 388-87-030, filed 8/27/69; Order 336, § 388-87-030, filed 2/3/69; Order 304, § 388-87-030, filed 9/6/68; Order 264 (part), § 388-87-030, filed 11/24/67.]

WAC 388-87-035 Payment--Transportation for medical reasons. (1) Payment for patient transportation shall be made for eligible individuals according to WAC 388-86-085.

(2) Payment for patient transportation services shall be made on the basis of usual and customary charges or the rates established by the department, whichever is lower.

(3) Methods of reimbursement and required billing procedures for patient transportation services shall be published as necessary by the division of medical assistance.

(4) Providers of patient transportation services must show medical justification on the billing document for the type of transportation utilized as well as the need for medical care.

(5) Ambulances, air ambulances and commercial air transportation services shall be licensed, operated and equipped in accordance with applicable federal, state and local statutes, ordinances and regulations.

(6) Cabulances shall be operated and equipped in accordance with minimum requirements established by the division of medical assistance and other applicable statutes, ordinances and regulations.

(7) Taxi and bus transportation services shall be operated and equipped in accordance with state and local statutes, ordinances and regulations. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-87-035, filed 12/3/81; 80-13-020 (Order 1542), § 388-87-035, filed 9/9/80; Order 1244, § 388-87-035, filed 10/10/77; Order 755, § 388-87-035, filed 12/14/72; Order 706, § 388-87-035, filed 8/11/72; Order 336, § 388-87-035, filed 2/3/69; Order 304, § 388-87-035,

filed 9/6/68; Order 264 (part), § 388-87-035, filed 11/24/67.]

WAC 388-87-045 Payment--Blood. (1) Payment shall be made for whole blood or blood derivatives only when it is not available to the patient from other sources.

(a) For persons eligible for Medicare benefits, the above applies only to the first three pints of blood or plasma in any spell of illness.

(b) Payment will not be made for blood or blood derivatives when the source is by donation.

(2) Payment will be made for the service charges necessary for handling and processing the blood or blood derivatives unless provided to an individual who is hospitalized. In the latter case, payment will be included in the total payment to the hospital.

(3) Administration of blood or blood derivatives on an outpatient basis in a hospital may be added to the total payment for outpatient service. Additional payments for blood bank service charges will be made when applicable. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-87-045, filed 12/3/81; Order 406, § 388-87-045, filed 11/24/69; Order 304, § 388-87-045, filed 9/6/68; Order 264 (part), § 388-87-045, filed 11/24/67.]

WAC 388-87-047 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-87-065 Payment--Home health agency. Fees for home health services shall be paid within rates established by the division of medical assistance. The department will pay for the services of a home health agency certified under Title XVIII for an eligible recipient under age sixty-five and for those recipients sixty-five years of age and over who are in need of services of a type or degree for which medicare does not pay. Approval by the office of the medical director is required for care which extends beyond the limits established by the division of medical assistance. [Statutory Authority: RCW 74.08.090. 82-21-024 (Order 1891), § 388-87-065, filed 10/13/82; 80-13-020 (Order 1542), § 388-87-065, filed 9/9/80; Order 1112, § 388-87-065, filed 4/15/76; Order 593, § 388-87-065, filed 8/25/71; Order 264 (part), § 388-87-065, filed 11/24/67.]

WAC 388-87-070 Payment--Hospital care. 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. Except for nonallowable revenue codes and the salary and wage component determination described in this subsection, reimbursable cost will be determined by the application of the ratio of hospital commission approved operating expense and total rate setting revenue. Changes in the salary and wage component will be determined by the secretary, after consideration of legislative policy with regard to public employees and after consideration of the amount of increases being financed by the department for other providers of medical assistance services.

Recipients of medicaid funded hospital services must have been approved as financially and medically eligible for hospitalization. They are:

(1) Categorically needy recipients,

(2) Limited casualty program recipients. A deductible not to exceed one-half the payment the department makes for the first day of inpatient hospital care for each admission is the responsibility of the limited casualty program--medically needy recipients,

(3) Recipients of continuing general assistance. [Statutory Authority: RCW 74.08.090. 82-18-066 (Order 1873), § 388-87-070, filed 9/1/82; 82-01-001 (Order 1725), § 388-87-070, filed 12/3/81; 81-16-032 (Order 1684), § 388-87-070, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-070, filed 4/27/81; 80-15-034 (Order 1554), § 388-87-070, filed 10/9/80; 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 388-87-075 Payment--Laboratory services.

(1) A physician using his own laboratory to provide necessary laboratory services shall bill the department according to the schedule of maximum allowances.

(2) A physician using the services of an independent laboratory shall request services for a recipient in the same manner he requests services for his private patient.

(3) An independent laboratory must bill the department directly. No reimbursement will be made to a physician for services performed by an independent laboratory. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-87-075, filed 12/3/81; 81-16-032 (Order 1684), § 388-87-075, filed 7/29/81; 80-13-020 (Order 1542), § 388-87-075, filed 9/9/80; Order 995, § 388-87-075, filed 12/31/74; Order 485, § 388-87-075, filed 10/13/70; Order 406, § 388-87-075, filed 11/24/69; Order 264 (part), § 388-87-075, filed 11/24/67.]

WAC 388-87-077 Payment--Mental health center services. 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. [Statutory Authority: RCW 74.08.090. 81-10-016 (Order 1648), § 388-87-077, filed 4/27/81; 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 and related supplies originating with the attending physician for recipients in their own home requires approval from the medical consultant. Approval is not required for recipients in a nursing home. Repeat deliveries to recipients in their own home do not require approval. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-87-080, filed 12/3/81; 81-06-003 (Order 1610), § 388-87-080, filed 2/19/81; 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 388-87-095 Payment--Physician service. (1) General provisions.

(a) Billing and payment for physician services will be made in accordance with divisional billing instructions and schedule of maximum allowances.

(b) The CSO 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, medical report, 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 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.

(d) When it comes to the attention of the division 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. 81-16-032 (Order 1684), § 388-87-095, filed 7/29/81; 80-13-020 (Order 1542), § 388-87-095, filed 9/9/80; 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 388-87-105 Payment--Medical care outside state of Washington. (1) Medical care furnished in designated bordering cities is not considered to be out-of-state care. Payment is made to the provider of service as

for care provided within the state of Washington. Provider licensure requirements, however, would be those of the state in which care is rendered.

(2) Payment is not authorized for out-of-state medical care furnished to state-funded recipients.

(3) The three-month retroactive coverage may apply to out-of-state care given for covered medical care to eligible applicants.

(4) When out-of-state service is provided (excluding state office approved care in a skilled nursing home) in a state with a Title XIX medical care program, payment shall be authorized at the rate paid by the medical care program of the state in which the service is rendered. If provided in a state without a Title XIX program, payment shall be authorized at the rate charged, but not to exceed the rate paid for the service under Title XVIII medicare.

(5) Out-of-state providers shall be furnished with necessary billing forms and instructions.

(6) If the deductible or coinsurance portions of medicare are claimed, it will be necessary for the provider to submit his billing to the intermediary or carrier in his own state on the appropriate medicare billing form. If the state of Washington is checked as being responsible for medical billing on the form, the intermediary or carrier may bill on behalf of the provider or may return the billing to the provider for submitting to the state.

(7) Approved care in out-of-state skilled nursing home will be paid either at the rates for care charged in that state for recipients of public assistance, or in an amount not to exceed the rate for skilled nursing home care in the state of Washington, whichever is the lesser amount. Exceptions to the rule in this subsection may be granted only by the director of the division of medical assistance or his designee. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-87-105, filed 12/3/81; 81-16-032 (Order 1684), § 388-87-105, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-105, filed 4/27/81; 80-13-020 (Order 1542), § 388-87-105, filed 9/9/80; Order 1203, § 388-87-105, filed 4/1/77; Order 1112, § 388-87-105, filed 4/15/76; Order 1061, § 388-87-105, filed 10/8/75; Order 879, § 388-87-105, filed 11/29/73; Order 667, § 388-87-105, filed 3/23/72; Order 567, § 388-87-105, filed 5/19/71; Order 336, § 388-87-105, filed 2/3/69; Order 304, § 388-87-105, filed 9/6/68; Order 264 (part), § 388-87-105, filed 11/24/67.]

Chapter 388-88 WAC

MEDICAL CARE--NURSING HOME CARE

WAC

| | |
|------------|---|
| 388-88-001 | Nursing home care. |
| 388-88-007 | Repealed. |
| 388-88-010 | Name of nursing home. |
| 388-88-045 | Repealed. |
| 388-88-050 | Adequate nursing home care. |
| 388-88-051 | Repealed. |
| 388-88-065 | Repealed. |
| 388-88-075 | Nursing home contract--Noncompliance. |
| 388-88-080 | Utilization review and classification of clients. |
| 388-88-081 | Skilled nursing care residents. |

- 388-88-082 Minimum licensed personnel requirements for skilled nursing facilities.
- 388-88-083 Intermediate nursing care residents.
- 388-88-086 Repealed.
- 388-88-088 Repealed.
- 388-88-100 Transfer or relocation.
- 388-88-101 Residents' rights.
- 388-88-102 Discharge planning.
- 388-88-115 Discharge or leave of nursing home resident.
- 388-88-117 Repealed.
- 388-88-119 Provider report of a disturbance.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-88-007 IMR facilities. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-88-007, filed 6/1/78.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-045 Closure of nursing home. [Order 1257, § 388-88-045, filed 12/21/77; Order 1168, § 388-88-045, filed 11/3/76; Order 342, § 388-88-045, filed 3/20/69; Order 264 (part), § 388-88-045, filed 11/24/67.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-051 Additional services required for IMR residents. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-88-051, filed 6/1/78.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-065 Continuity of patient care. [Order 342, § 388-88-065, filed 3/20/69; Order 264 (part), § 388-88-065, filed 11/24/67.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-086 Minimum staffing requirements--IMR. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-88-086, filed 6/1/78.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-088 Classification of IMR clients. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-88-088, filed 6/1/78.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-117 Social leave for IMR clients. [Statutory Authority: RCW 74.08.044. 79-01-084 (Order 1365), § 388-88-117, filed 1/3/79.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.

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, certification and utilization control activities.

(2) Each Title XIX 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 residents with related conditions (IMR).

(3) A contract for the provision of care to medical assistance clients at an ICF facility will be for ICF care only. Except as provided in WAC 388-88-001(4) contracts for the provision of care at all other facilities will be dual (ICF/SNF). Medical assistance clients classified as requiring either intermediate level or skilled nursing care must be provided care only in a facility so certified.

(4) A hospital may elect to provide skilled nursing facility and/or intermediate care facility services to medical assistance clients. The hospital must be certified, and all rules and regulations relating to skilled nursing facilities and/or intermediate care facilities shall apply. [Statutory Authority: RCW 74.42.620. 82-18-064 (Order 1871), § 388-88-001, filed 9/1/82. 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-88-010 Name of nursing home. The department will recognize only the official name of a nursing home as shown on the nursing home license application or subsequent written notification of a name change. [Statutory Authority: RCW 74.42.620. 82-18-064 (Order 1871), § 388-88-010, filed 9/1/82; Order 342, § 388-88-010, filed 3/20/69; Order 264 (part), § 388-88-010, filed 11/24/67.]

WAC 388-88-045 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-88-050 Adequate nursing home care. (1) Care and services rendered must be justified as essential to resident health care needs, with the overall goal of restoration, maintenance at the highest possible level of independence, and/or supportive care. The nursing home is obligated to provide adequate nursing home care as defined in chapter 248-14 WAC and federal regulations. Adequate care and services include but are not necessarily limited to:

- (a) Physician services,
- (b) Nursing care and supervision, including provision of twenty-four hour RN staffing when deemed necessary by the provider or the department,
- (c) Personal hygiene; baths, shampoos, nail care, shaves, oral care, and skin care,
- (d) Health record for each resident,
- (e) Meeting medically related psychosocial needs, ordered by the physician when appropriate,
- (f) Nutritionally adequate and varied diet,
- (g) Safe and comfortable environment,
- (h) Safeguarding the resident's rights and personal possessions.

(2) The nursing home is obligated to provide items and supplies routinely and relatively uniformly used for residents, and essential for the provision of adequate health care services. Such items include but are not limited to:

- (a) Resident gowns,
- (b) Pitchers, basins, bedpans, urinals, commodes, and elevated toilet seats,
- (c) Materials used for care of incontinent residents, such as pads,
- (d) Soaps, lotions, shampoos, toothpaste, mouthwash, and powder,

(e) Alcohol sponges, applicators, tongue depressors, thermometers, band-aids, facial tissue, swabs, and dressings for occasional and emergency use,

(f) Appropriate equipment used for protective support or restraints,

(g) Approved nonlegend stock drugs and solutions, such as antiseptics, laxatives, anti-diarrheal medications, aspirin or equivalent pain relievers, salt or sugar substitutes,

(h) Physician ordered dietary supplements,

(i) Linen and nonpersonal laundry,

(j) Clinitest tape or tablets, quiac tests, mineral oil, vaseline or other lubricants,

(k) Medication supplies including gloves, hypodermic syringes, and needles,

(l) Supplies for specimen collections, simple irrigations, and enemas,

(3) Reuseable equipment to be available for periodic use includes:

(a) Ice bags, hotwater bottles,

(b) Bedrails, footstools, traction equipment,

(c) Walkers, wheelchairs, canes, crutches,

(d) Emergency tray and aspirator,

(e) Equipment for administration of oxygen.

(4) Medically justified services provided for in chapter 388-86 WAC:

(a) Specialty consultation,

(b) Laboratory services including specimen bottles, tubes, needles, and syringes,

(c) X-ray services,

(d) Prescription services,

(e) Eye glasses and examinations,

(f) Physical therapy,

(g) Respiratory therapy and oxygen services.

(5) Surgical appliances, prosthetic devices, and aides to mobility required for the exclusive use of a resident are available to the resident directly according to WAC 388-86-100.

(6) Supplies not usually provided for nursing home residents may be individually ordered according to WAC 388-86-005(2). These items may include medically justified resident care supplies. Requests for such supplies must be authorized by the nursing care consultant. These supplies may be categorized as nonreusable (one-time use) or disposable (time-limited use), items which can be reused with proper handling and precautions by the same residents, but not between residents. [Statutory Authority: RCW 74.42.620. 82-18-064 (Order 1871), § 388-88-050, filed 9/1/82. Statutory Authority: RCW 74.08.090. 81-01-012 (Order 1571), § 388-88-050, filed 12/8/80; Order 1257, § 388-88-050, filed 12/21/77; Order 1168, § 388-88-050, filed 11/3/76; Order 342, § 388-88-050, filed 3/20/69; Order 264 (part), § 388-88-050, filed 11/24/67.]

WAC 388-88-051 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-88-065 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-88-075 Nursing home contract--Non-compliance. (1) When a home is in violation of the terms of the contract, the department may temporarily suspend the referral of clients to the home. Whenever referral is suspended under this section, the home will immediately be notified by phone and confirmed in writing of the suspension and of the basis for the department's action. Suspension may continue until the department determines the infraction has been satisfactorily corrected.

(2) Referral of clients is suspended when a home fails to provide staffing commensurate with the terms of the contract. A home, unable to provide the level of care for which a client is classified, shall not accept or retain clients whose unique needs cannot be met. Violations creating a health or safety hazard to individual residents shall constitute grounds for termination of the contract by the department (chapter 18.51 RCW).

(3) When the department terminates a contract, the home will be notified in writing of the contract termination and the basis for the department's action. The department will assist in the movement of medical assistance clients needing continued nursing care. [Statutory Authority: RCW 74.42.620. 82-18-064 (Order 1871), § 388-88-075, filed 9/1/82; Order 1257, § 388-88-075, filed 12/21/77; Order 1168, § 388-88-075, filed 11/3/76; Order 342, § 388-88-075, filed 3/20/69; Order 264 (part), § 388-88-075, filed 11/24/67.]

WAC 388-88-080 Utilization review and classification of clients. (1) Level of care determinations in skilled nursing and intermediate care facilities are made by the nursing care consultants in accordance with the nursing care consultants' professional judgment and in accord with WAC 388-88-081 and 388-88-083.

(2) In making classification recommendations for nursing home placement, the department's personnel shall utilize the guidelines for skilled and intermediate nursing home care in WAC 388-88-081 and 388-88-083.

(3) The classification of each individual nursing home client shall periodically be reviewed by the nursing care consultant to assure appropriate use of medicaid services by:

(a) Assessing client(s) care needs and adequacy of services provided.

(b) Determining the need for continued stay.

(c) Identifying the level of care required to meet the nursing care needs of the client.

(4) Classification changes shall be made in accordance with the needs of the clients and in accord with appeal and relocation procedures outlined in WAC 388-88-101. [Statutory Authority: RCW 74.42.620. 82-18-064 (Order 1871), § 388-88-080, filed 9/1/82; Order 1257, § 388-88-080, filed 12/21/77; Order 1168, § 388-88-080, filed 11/3/76; Order 342, § 388-88-080, filed 3/20/69; Order 264 (part), § 388-88-080, filed 11/24/67.]

WAC 388-88-081 Skilled nursing care residents. Residents requiring skilled nursing care are residents whose condition, needs, and/or services are of such

complexity and sophistication so as to require frequent or continuous observation and intervention of a registered nurse, and the supervision of a licensed physician. These residents require ongoing assessments of physiological and/or psychological needs, and the development and implementation of a comprehensive plan of care involving interdisciplinary planning input and coordination. Resident needs include ongoing evaluations, care plan revisions, and the teaching necessary to provide for residents whose condition is unstable and/or complex. [Statutory Authority: RCW 74.42.620. 83-01-016 (Order 1921), § 388-88-081, filed 12/6/82; 82-18-064 (Order 1871), § 388-88-081, filed 9/1/82; Order 1257, § 388-88-081, filed 12/21/77.]

WAC 388-88-082 Minimum licensed personnel requirements for skilled nursing facilities. The facility shall meet all staffing requirements as defined in chapter 248-14 WAC. [Statutory Authority: RCW 74.42.620. 82-18-064 (Order 1871), § 388-88-082, filed 9/1/82; Order 1257, § 388-88-082, filed 12/21/77.]

WAC 388-88-083 Intermediate nursing care residents. Residents requiring intermediate nursing care are residents whose physiological and/or psychological functioning is stable, but require individually planned treatment and services under the daily direction of a registered nurse or a licensed nurse with registered nurse consultation as provided by exemption and the supervision of a licensed physician. The program is directed toward maintenance of maximum independence and return to the community whenever possible. The program includes an established treatment regimen involving more than supervision, assistance with personal care, and protection. [Statutory Authority: RCW 74.42.620. 83-01-016 (Order 1921), § 388-88-083, filed 12/6/82; 82-18-064 (Order 1871), § 388-88-083, filed 9/1/82; Order 1257, § 388-88-083, filed 12/21/77.]

WAC 388-88-086 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-88-088 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-88-100 Transfer or relocation. (1) The department is responsible for ensuring that individual medical assistance client's needs are identified and met, as provided by state and federal regulations. The department is therefore responsible for ensuring each client is authorized to receive care in a facility certified and capable of meeting the needs of the individual client and for ensuring necessary transfers are accomplished to provide appropriate continuity of care.

(2) Each medical assistance client admitted to a facility is transferred or discharged only for medical reasons, or for his or her welfare or the welfare of other clients, or for nonpayment for his or her stay. The determination shall be made by the department based on an assessment of the client, consultation with the provider, and a review of relevant records.

(3) The department is responsible for initiating and facilitating client relocation if the services being provided are not commensurate with the client's needs. See WAC 388-88-075. This includes the following:

(a) Revocation or suspension of the nursing home license.

(i) Clients or next of kin, guardian or responsible party will be notified by letter from the department that thirty days after the mailing date of the letter, the facility will no longer be allowed to operate as a nursing home.

(ii) The client, therefore, will be required to relocate: *Provided*, That nothing in this section shall require a pretransfer notice be given when the secretary or his or her designee determines an immediate threat to health and/or safety exists.

(iii) Moves may be accomplished sooner at the request of the client or with the client's consent.

(b) Decertification, termination or nonrenewal of contract actions require stop payment of Title XIX funds.

(i) The decisions do not affect the provider's right to operate as a nursing home, but rather, the provider's eligibility to receive federal funds.

(ii) Clients must be informed in writing of provider's discontinued eligibility for Title XIX funds.

(c) Reclassifications requiring relocation are based on review and assessment by the designated representative of the department (WAC 388-88-080).

(i) The attending physician is informed of the classification determination and given an opportunity to provide additional information.

(ii) Prior to implementation of a change in the level of care, which will result in a transfer, the client or next of kin, guardian or responsible party shall be informed of relocation in writing. Written notification shall be thirty days prior to the effective date of the change pursuant to WAC 388-88-101.

(iii) The client will be informed of his or her right to request a fair hearing.

(4) A provider is responsible for initiating transfer or relocation of a client under the following circumstances:

(a) A provider may request a client be transferred or relocated only for medical reasons, or for his or her welfare or the welfare of other residents or for nonpayment of his or her stay. See WAC 388-88-075(2).

(i) The provider shall send a request in writing for relocation or discharge of a medical assistance client to the department. The request shall include the reason for the relocation or discharge.

(ii) The department shall approve or deny the request for relocation or discharge based on an on-site visit with the client and a review of his or her records, within thirty days following receipt of the request.

(iii) The facility administrator shall be informed of the department approval or denial of the request in writing.

(iv) If the provider's request is approved, the department shall notify the client and next of kin or guardian, or responsible party, in writing of the decision pursuant to WAC 388-88-101. The client and next of kin,

guardian or responsible party will be informed of the right to request a fair hearing.

(v) The client and the department will be allowed thirty days from the date the client is notified by the department to facilitate discharge planning and accomplish relocation.

(vi) Arrangements for relocation will be the responsibility of the client or next of kin, guardian or responsible party.

(vii) The provider must notify the community services office and the nursing care consultant of the relocation arrangements.

(b) Closure of a nursing home.

(i) When a nursing home provider decides to cease operation, the provider must notify the bureau of nursing home affairs in writing, giving thirty days notice.

(ii) The nursing home provider is responsible for written notification to all residents.

(iii) The department may assist residents in transfer and relocation appropriate to the individual care needs.

(5) The medical assistance client has a right to seek relocation and to select the nursing home he or she desires for placement. If this selection is available and appropriate to the client's medical care needs, relocation shall be arranged by the client or next of kin, guardian or responsible party. [Statutory Authority: RCW 74.42-.620, 82-18-064 (Order 1871), § 388-88-100, filed 9/1/82; Order 1257, § 388-88-100, filed 12/21/77; Order 1197, § 388-88-100, filed 3/17/77; Order 631, § 388-88-100, filed 11/24/71; Order 342, § 388-88-100, filed 3/20/69; Order 264 (part), § 388-88-100, filed 11/24/67.]

WAC 388-88-101 Residents' rights. (1) Except in cases specified in WAC 388-88-101(3), the medical assistance client or next of kin, guardian or responsible party or the guardian of the client, if the client has been adjudicated to be incompetent, must be informed in writing ninety days prior to the relocation or reclassification. Such notice must include:

(a) The reasons for the proposed change and/or transfer;

(b) A right to a conference with departmental representatives and any other individuals the client wishes to speak to within thirty days of receipt of such notice;

(c) The right to request a fair hearing within ninety days of receipt of the notice to contest the department's decision;

(d) The method by which a fair hearing may be obtained;

(e) The right to be represented at the fair hearing by an authorized representative;

(f) The existence of any legal services available in the community.

(2) A fair hearing request form shall be sent with the notice of relocation and/or reclassification.

(a) The client must request a fair hearing within thirty days of receipt of the reclassification notice in order to have the current level of care continued. Any proposed change and/or transfer shall be delayed pending the outcome of the appeal process.

(b) If the secretary or his or her designee finds a change in the level of care is not appropriate, no further action shall be taken to change the level of care or transfer the patient, unless there is a change in the situation or circumstances at which time the request may be resubmitted.

(c) If the secretary or his or her designee affirms the determination to change the level of care and/or transfer, and no judicial review is filed within thirty days of the receipt of notice of determination, the department shall proceed with the planned action.

(d) Medical assistance clients assessed as no longer requiring nursing home care who refuse to transfer to another level of care will be ineligible for medicaid nursing home payment thirty days following the effective date of determination or thirty days following the fair hearing decision affirming the department's determination of not in need of nursing care.

(3) Advance notice is not required when:

(a) The medical assistance client or the next of kin, guardian or responsible party, requests a transfer in writing and waives the right to a period of notice.

(b) An immediate threat to the client's life or health, or that of others is present.

(c) The department judges the facility where the client resides is no longer able to provide Title XIX services due to:

(i) Termination of provider's contract;

(ii) Decertification of the provider;

(iii) Nonrenewal of provider's contract;

(iv) Revocation of provider's license;

(v) Emergency license suspension. [Statutory Authority: RCW 74.42.620, 82-18-064 (Order 1871), § 388-88-101, filed 9/1/82; Order 1257, § 388-88-101, filed 12/21/77; Order 1197, § 388-88-101, filed 3/17/77.]

WAC 388-88-102 Discharge planning. A suitable discharge and transfer plan must be prepared for each medical care assistance client. Discharge or transfer shall be dependent on the client care needs, services provided, and the best resources available to provide an appropriate continuum of care. The plan shall include provisions for continuity of care and mitigation of potential transfer trauma:

(1) Coordination and active participation by the client and/or client's next of kin, guardian or responsible party in the transfer preparation program;

(2) Pre-transfer visit to the new facility, when the client's condition permits, to familiarize the client with new surroundings, and other residents;

(3) Coordination and communication of essential information concerning the client shall be provided in writing from:

(a) Hospital to nursing home;

(b) Nursing home to hospital;

(c) One nursing home to another;

(d) Any other alternatives to nursing home care.

(4) The department will assume responsibility for assisting with relocation and post-transfer follow-up in the following circumstances:

(a) Reclassification requiring relocation;

- (b) Decertification actions;
- (c) Involuntary termination or nonrenewal of contract;
- (d) Revocation or suspension of nursing home license.

(5) The department shall participate in planning and will specify the location of available beds at the appropriate level of care consistent with the needs of the client when discharge is necessitated by:

- (a) Reclassification requiring relocation;
- (b) Decertification actions;
- (c) Involuntary termination or nonrenewal of contract;
- (d) Revocation or suspension of nursing home license.

[Statutory Authority: RCW 74.42.620. 82-18-064 (Order 1871), § 388-88-102, filed 9/1/82; Order 1257, § 388-88-102, filed 12/21/77; Order 1197, § 388-88-102, filed 3/17/77.]

WAC 388-88-115 Discharge or leave of nursing home resident. (1) A certified nursing home or hospital having a nursing home contract with the department shall send immediate written notification of the date of discharge or death of a client to the community services office (CSO).

(2) Discharge and readmission notification is necessary for all medical assistance clients admitted as hospital inpatients.

(3) The provider shall also notify the CSO of social absences exceeding twenty-four hours. Social absences over thirty-six hours require CSO approval of the resident care plan.

(4) The department will not reimburse providers for the reservation of a bed for a single social absence exceeding seven days, unless written permission is received by the provider from the CSO. The department will reimburse providers for absences not to exceed a total per calendar year of eighteen days. [Statutory Authority: RCW 74.42.620. 82-18-064 (Order 1871), § 388-88-115, filed 9/1/82; Order 1237, § 388-88-115, filed 8/31/77; Order 1168, § 388-88-115, filed 11/3/76; Order 879, § 388-88-115, filed 11/29/73; Order 631, § 388-88-115, filed 11/24/71; Order 342, § 388-88-115, filed 3/20/69; Order 264 (part), § 388-88-115, filed 11/24/67.]

WAC 388-88-117 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-88-119 Provider report of a disturbance.

(1) The provider will report to the local law enforcement agency any person including a client or next of kin, guardian or responsible party threatening bodily harm or causing a disturbance of such magnitude any individual's welfare and safety is threatened.

(2) Any event that requires or may require the evacuation to another address of all or part of the nursing home's residents shall be reported immediately to the licensing agency of the department. [Statutory Authority: RCW 74.42.620. 82-18-064 (Order 1871), § 388-88-119, filed 9/1/82.]

**Chapter 388-91 WAC
MEDICAL CARE--DRUGS**

WAC

- 388-91-010 Drugs--Persons eligible.
- 388-91-016 Drugs--Limitations to payment.
- 388-91-035 Drugs--Pharmacist's agreement.
- 388-91-040 Drugs--Pricing standards.
- 388-91-050 Out-of-state prescriptions.

WAC 388-91-010 Drugs--Persons eligible. (1) A drug formulary will list all drug preparations which are provided without prior approval of medical consultant. It will include a description of program limitations, rules and program policy and penalties. The decision to place drugs in the division of medical assistance program drug formulary is based on these criteria:

(a) The drug must be established as a part of necessary and essential care for the condition for which it is to be used.

(b) The drug must be in general use by the physicians practicing in Washington.

(c) The drug must be of moderate cost. Generic forms will be used when listed under DSHS or federal maximum allowable cost (MAC) programs. When two preparations of equal effectiveness but disparate costs are presented, the less expensive one will be selected for the formulary.

(d) Drugs must not be classified "ineffective" or "possibly effective" by the food and drug administration.

(e) The drug must not be experimental.

(2) The following process is used to determine the acceptability of a drug preparation for possible listing in the formulary:

(a) Objective, scientific information and utilization data is reviewed for appropriateness according to the criteria in subsection (1) of this section, by the program medical staff, or,

(b) The secretary may appoint an advisory committee in accordance with RCW 43.20A.360 to review and advise the division of medical assistance on the acceptability of the drug preparation.

(c) The medical director or his designee may make appropriate changes in the formulary consistent with subsection (1) of this section, and may accept recommendations of the advisory committee providing that action is in compliance with regulations governing the program and with acceptable management policies.

(d) Acceptable drugs will be included in the next subsequent edition of the formulary.

(3) In accordance with the department's rules and regulations drugs are provided for:

(a) The necessary and essential medical care of recipients of medical assistance and the limited casualty program.

(b) Recipients of state-funded medical care are furnished maintenance medications as listed by therapeutic classifications in the current division of medical assistance drug formulary. These persons are identified by the notation "GAU" on their medical identification coupons. [Statutory Authority: RCW 74.08.090. 81-16-032 (Order 1684), § 388-91-010, filed 7/29/81; 81-10-016

(Order 1648), § 388-91-010, filed 4/27/81; 80-15-034 (Order 1554), § 388-91-010, filed 10/9/80; 80-02-024 (Order 1473), § 388-91-010, filed 1/9/80; 79-06-034 (Order 1402), § 388-91-010, filed 5/16/79; 78-10-077 (Order 1346), § 388-91-010, filed 9/27/78; Order 682, § 388-91-010, filed 5/10/72; Order 632, § 388-91-010, filed 11/24/71; Order 583, § 388-91-010, filed 7/20/71; Order 461, § 388-91-010, filed 6/17/70, effective 8/1/70; Order 387, § 388-91-010, filed 8/27/69; Order 316, § 388-91-010, filed 10/31/68.]

WAC 388-91-016 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 and human services - 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.

(f) Drugs listed in the federal register as "ineffective" or "possibly effective." Payment will not be made for such prescriptions under any circumstances.

(2) The department furnishes psychotherapeutic drugs and agents used for treating drug-induced Parkinsonism which are prescribed for eligible former patients of Washington state institutions for the mentally ill and retarded. The attending physician shall mail the prescription, form 6-02, directly to the institution from which the patient has been discharged. The medication is then mailed by the facility pharmacy to the patient. Payment is not made to pharmacist providers in this situation. 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 injection) incidental to an office call may include a fee established by the division 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.

(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. 81-10-016 (Order 1648), § 388-91-016, filed 4/27/81; 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 388-91-035 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 Office of Provider Services 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 one hundred twenty days after the termination of their service or as otherwise provided by state law. Bills presented after the required one hundred twenty-day period shall be a charge against the state only when a written extension has been given by the division of medical assistance before the one hundred twenty-day period ends. [Statutory Authority: RCW 74.08.090. 81-10-016 (Order 1648), § 388-91-035, filed 4/27/81; 80-13-020 (Order 1542), § 388-91-035, filed 9/9/80; 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. 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) There shall be no differential in pricing prescriptions issued in less than manufacturer's size.

(4) The department will not pay more than the lower of ingredient cost plus a dispensing fee or the provider's usual and customary charge to the public. Ingredient cost will be set at the estimated acquisition cost, which is the department's best estimate of the price providers

generally are paying for a drug. The dispensing fee will be set by taking into account the results of surveys and the costs of pharmacy operation. Reimbursement may also be made through exclusive service contracts for the provision of prescription drugs for nursing home patients.

(5) Unit dose systems recognized by the department requires each patient's medication to be delivered to the facility a minimum of five days a week or delivery of medical carts every other day with daily service available. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-91-040, filed 12/3/81; 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.]

WAC 388-91-050 Out-of-state prescriptions. (1) Drugs provided residents of the state of Washington who are temporarily out of the state as defined in WAC 388-26-060 and 388-30-055 shall be authorized as part of medical care within the scope of WAC 388-86-115. Border situations as described by WAC 388-82-030(4) and (5) are not subject to out-of-state rules and are to be considered as care provided in the state of Washington.

(2) Drugs provided by out-of-state pharmacists (bordering cities excepted) shall require the approval of the local medical consultant before payment can be made. [Statutory Authority: RCW 74.08.090. 81-16-032 (Order 1684), § 388-91-050, filed 7/29/81; Order 475, § 388-91-050, filed 9/8/70; Order 316, § 388-91-050, filed 10/31/68.]

Chapter 388-92 WAC

MEDICAL CARE FOR PERSONS RECEIVING BENEFITS UNDER TITLE XVI OF SOCIAL SECURITY ACT--ELIGIBILITY--INCOME AND RESOURCE STANDARDS FOR APPLICANTS IN OWN HOME

WAC

| | |
|------------|---|
| 388-92-005 | Definitions. |
| 388-92-010 | Repealed. |
| 388-92-015 | Eligibility determination--SSI. |
| 388-92-020 | Repealed. |
| 388-92-025 | Computation of available income. |
| 388-92-030 | Monthly standard. |
| 388-92-035 | Repealed. |
| 388-92-040 | Availability of resources. |
| 388-92-043 | Transfer of resources without adequate consideration. |
| 388-92-045 | Excluded resources. |
| 388-92-050 | Limitation of resources. |
| 388-92-055 | Repealed. |
| 388-92-060 | Repealed. |
| 388-92-065 | Repealed. |
| 388-92-070 | Repealed. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-92-010 | Description of program. [Order 996, § 388-92-010, filed 12/31/74; Order 898, § 388-92-010, filed |
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|------------|---|
| 388-92-020 | 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090. Application for medical care. [Statutory Authority: RCW 74.08.090. 80-02-050 (Order 1476), § 388-92-020, filed 1/16/80; Order 1111, § 388-92-020, filed 4/15/76; Order 898, § 388-92-020, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
| 388-92-035 | Monthly personal needs allowance--Person in institution. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-92-035, filed 9/9/80; 80-02-062 (Order 1478), § 388-92-035, filed 1/18/80; 78-10-077 (Order 1346), § 388-92-035, filed 9/27/78; Order 898, § 388-92-035, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
| 388-92-055 | Allocation of income and resources. [Statutory Authority: RCW 74.08.090. 80-02-061 (Order 1479), § 388-92-055, filed 1/18/80; Order 1227, § 388-92-055, filed 8/8/77; Order 996, § 388-92-055, filed 12/31/74; Order 960, § 388-92-055, filed 8/13/74; Order 898, § 388-92-055, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
| 388-92-060 | Authorization. [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.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
| 388-92-065 | Termination of SSI beneficiary. [Order 898, § 388-92-065, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090. |
| 388-92-070 | Person converted into Title XVI. [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.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090. |

WAC 388-92-005 Definitions. The definitions in this section apply only to SSI related applicants.

(1) Beneficiary - A person who receives a cash benefit under Title XVI and/or state supplement.

(2) SSI related - An aged, blind, or disabled person who meets the Title XIX resource standards.

(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.

(4) 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 an available 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.

(5) Fair market value – The current market value of a resource at the time of transfer or contract for sale, if earlier.

(a) Uncompensated value means the fair market value of a resource minus the amount of compensation received in exchange for the resource.

(b) Value of compensation received means the gross amount paid or agreed to be paid by the purchaser. [Statutory Authority: RCW 74.08.090. 82-10-062 (Order 1801), § 388-92-005, filed 5/5/82; 81-10-014 (Order 1646), § 388-92-005, filed 4/27/81; 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 388-92-010 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-92-015 Eligibility determination--SSI.

(1) For the purposes of medical assistance related to SSI, 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. Decisions on SSI related disability are the responsibility of the office of disability insurance benefits, division of medical assistance.

(d) The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for medicaid.

(2) A resident of Washington who requires medical assistance outside the United States will be provided care according to chapter 388-82 WAC.

(3) The applicant and/or recipient must be resource eligible (see WAC 388-92-050) on the first day of the month to be eligible for any day or days of that month. [Statutory Authority: RCW 74.08.090. 83-02-026 (Order 1929), § 388-92-015, filed 12/29/82; 82-21-024 (Order 1891), § 388-92-015, filed 10/13/82; 81-10-014 (Order 1646), § 388-92-015, filed 4/27/81; 80-02-

050 (Order 1476), § 388-92-015, filed 1/16/80; 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 388-92-020 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-92-025 Computation of available income.

(1) Total income of a beneficiary of supplemental security income is not considered available in determining eligibility.

(2) 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. Income and resources are considered mutually available:

(a) For the first six months after the month they cease to live together where both spouses apply as SSI related (aged, blind or disabled),

(b) For the month of separation where only one spouse applies as SSI related (aged, blind or disabled), or where blind or disabled children are separated from parents.

(3) For SSI related individuals, age eighteen to twenty-one, parents' income is not deemed available.

(4) For SSI related individuals under age eighteen, parents' income is deemed available when living in the same household.

(5) When the spouse of an SSI related applicant is ineligible or does not apply, the exclusions in subsections (6) and (8) of this section, shall be applied to his/her income in determining the amount to be deemed to the applicant. If the remaining income of the ineligible spouse exceeds the monthly state supplement benefit standard all the remaining income shall be deemed to the applicant.

(6) Exclusions from income. The following 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 in subsection (6)(a) through (f) of this section, 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;

(h) Tax exempt payments received by Alaska natives under the Alaska Native Claims Settlement Act;

(i) Tax rebates or special payments excluded by other statutes. When necessary these exclusions will be 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;

(k) When an ineligible minor is in the household of an SSI applicant, an amount will be excluded for such child's needs. The exclusions will be the difference between the SSI couple cash benefit and the SSI individual cash benefit;

(l) Veteran's aid and attendance allowance is to be excluded in determining financial eligibility.

(i) If the sum is paid to a spouse, it is considered that individual's earned income and may be deemed to the applicant.

(ii) For institutionalized applicants, the amount subsequently is considered in the cost of institutional care.

(m) A fee charged by a guardian to reimburse himself or herself for services provided is not considered available to the individual and is not treated as income.

(n) Income received by an ineligible or nonapplying spouse from a governmental agency for services provided to an eligible recipient (e.g. chore services).

(7) An ineligible or nonapplying 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 unless that income is actually contributed to the applicant.

(8) Earned income exclusions for SSI related individuals shall be the first sixty-five dollars per month of earned income not excluded according to subsection (6) of this section, plus one-half of the remainder. [Statutory Authority: RCW 74.08.090. 82-10-062 (Order 1801), § 388-92-025, filed 5/5/82; 82-01-001 (Order 1725), § 388-92-025, filed 12/3/81; 81-16-032 (Order 1684), § 388-92-025, filed 7/29/81; 81-10-014 (Order 1646), § 388-92-025, filed 4/27/81; 80-13-020 (Order 1542), § 388-92-025, filed 9/9/80; 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 standard. (1) After computing available income according to WAC 388-92-025 for SSI related individuals, the monthly standard shall be the state supplement standard. (See chapter 388-59 WAC)

(2) The monthly maintenance standard for SSI related couples (both applying) shall be the state supplement standard for a couple.

(3) When computing available income for a family of three or more the relative responsibility requirement of the appropriate cash assistance program shall be applied, except that relative responsibility shall be limited to spouse for spouse and parent for child.

(4) In mixed households (AFDC and SSI related members) determine income and resources according to AFDC regulations.

(5) Applicants and/or recipients eligible for limited casualty program-medically needy will have the monthly standard applied as in WAC 388-99-020.

(6) When one or both of the applicants is SSI related in a medical facility, a full calendar month standards defined in WAC 388-83-135 and 388-83-140 must be used. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-92-030, filed 12/3/81; 81-16-032 (Order 1684), § 388-92-030, filed 7/29/81; 81-10-014 (Order 1646), § 388-92-030, filed 4/27/81; 80-12-012 (Order 1537), § 388-92-030, filed 8/25/80; 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-92-040 Availability of resources. In establishing eligibility for medical assistance, only those resources actually available or "in hand," or expected to be "in hand," within a three-month period shall be considered. The resources must not exceed the specified standard to be eligible for medical care. [Statutory Authority: RCW 74.08.090. 81-16-032 (Order 1684), § 388-92-040, filed 7/29/81; 81-10-014 (Order 1646), § 388-92-040, filed 4/27/81; Order 1233, § 388-92-040, filed 8/31/77; Order 930, § 388-92-040, filed 4/25/74; Order 898, § 388-92-040, filed 1/25/74.]

WAC 388-92-043 Transfer of resources without adequate consideration. (1) This section is to implement Second Substitute House Bill No. 557 effective December 1, 1981.

(2) An individual is ineligible for Title XVI categorical medical assistance or the medically needy component of the limited casualty program for a period determined under this section if the person knowingly and wilfully assigns or transfers nonexempt resources at less than fair market value after December 1, 1981, for the purpose of

qualifying or continuing to qualify for such medical care within two years preceding the date of application for such care.

(3) Definitions:

(a) "Transfer" shall mean any act or omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing an interest in property. Transfer of title to a resource occurs by:

- (i) An intentional act or transfer; or
 - (ii) Failure to act to preserve title to the resource.
- (b) Fair market value means the reasonable value of a resource at the time of transfer or assignment.

(c) Uncompensated value means the fair market value of a resource minus the amount of compensation received in exchange for the resource.

(d) Value of compensation received means the consideration paid or agreed to be paid by the purchaser.

(4) WAC 388-28-461, 388-28-462, and 388-28-465 are incorporated by reference and apply to this section, with the exception to the reference therein to WAC 388-28-460.

(5) The voluntary transfer or assignment of resources between spouses is permitted without affecting eligibility or continued eligibility of the spouse who transfers(ed) or assigns(ed) the resources.

(6) The uncompensated fair market value of the resource assigned or transferred and the corresponding periods of ineligibility from the date of transfer are as follows:

| (a) Dollar Amount of Uncompensated Value | Months of Ineligibility |
|--|-------------------------|
| \$ 0 - \$ 1,000 | 1 |
| 1,001 - 2,000 | 2 |
| 2,001 - 3,000 | 3 |
| 3,001 - 4,000 | 4 |
| 4,001 - 5,000 | 5 |
| 5,001 - 6,000 | 6 |
| 6,001 - 7,000 | 7 |
| 7,001 - 8,000 | 8 |
| 8,001 - 9,000 | 9 |
| 9,001 - 10,000 | 10 |
| 10,001 - 11,000 | 11 |
| 11,001 - 12,000 | 12 |
| 12,001 - 13,500 | 13 |
| 13,501 - 15,000 | 14 |
| 15,001 - 16,500 | 15 |
| 16,501 - 18,000 | 16 |
| 18,001 - 19,500 | 17 |
| 19,501 - 21,000 | 18 |
| 21,001 - 22,500 | 19 |
| 22,501 - 24,000 | 20 |
| 24,001 - 25,500 | 21 |
| 25,501 - 27,000 | 22 |
| 27,001 - 28,500 | 23 |
| 28,501 - 30,000 | 24 |
| 30,001 - 31,667 | 25 |
| 31,668 - 33,333 | 26 |

| Dollar Amount of Uncompensated Value | Months of Ineligibility |
|--------------------------------------|-------------------------|
| 33,334 - 35,000 | 27 |
| 35,001 - 36,667 | 28 |
| 36,668 - 38,333 | 29 |
| 38,334 - 40,000 | 30 |
| 40,001 - 41,667 | 31 |
| 41,668 - 41,333 | 32 |
| 41,334 - 45,000 | 33 |
| 45,001 - 46,667 | 34 |
| 46,668 - 48,333 | 35 |
| 48,334 - 50,000 | 36 |
| Over \$ 50,000 | 48 |

(b) The period of ineligibility shall not include partial months.

(7) The period of ineligibility may be waived if it is determined that the application of the period of ineligibility shall cause undue hardship.

(8) A person determined to be ineligible for medical care under this section has the right to request a hearing to appeal the determination, except as modified by this section, the procedure for the hearing is chapter 388-08 WAC.

(a) At a hearing the burden of proving that the person knowingly and wilfully assigned or transferred cash or other resource(s) at less than fair market value for the purpose of qualifying or continuing to qualify for assistance is on the department and the burden of proof is a preponderance of the evidence.

(b) When the appellant is the prevailing party in the hearing, the appellant shall be awarded reasonable attorney fees.

(9) See WAC 388-81-052 for civil penalties to be applied to persons who have received nonexempt resources and did not give the recipient adequate consideration. [Statutory Authority: RCW 74.08.090. 82-23-002 (Order 1897), § 388-92-043, filed 11/4/82; 82-10-017 (Order 1776), § 388-92-043, filed 4/28/82.]

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 or 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.

(a) The home of the individual must be the individual's principal place of residence in order to be an excluded resource.

(i) Temporary absences from home including absences from home for trips, visits, and hospitalizations do not

offset the home exclusion as long as the individual intends to return home.

(ii) An absence of more than six months may indicate that the home no longer serves as the principal place of residence. See WAC 388-83-140(4)(d).

(iii) The home continues to be excluded if the individual intends to return and there is a likelihood that he/she will return.

(iv) When an institutionalized individual intends to return home, a physician's evaluation of his/her ability to return at some future time to a home setting may be used as the basis of a temporary absence determination. The evidence must be conclusive before a determination can be made that the individual is unable to return home.

(v) Transfer of a home during a temporary absence may constitute evidence that the individual no longer intends to return. Adequate consideration must be received and allocated to the individual's resources. See WAC 388-92-043, transfer of property at less than fair market value.

(b) If the home is used by a spouse or dependent relative during the individual's absence, it will continue to be considered the principal place of residence.

(2) Household goods and personal effects.

(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 \$4,500, any excess to be counted against the resource limit.

(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 six thousand dollars with a minimum annual rate of return of six percent.

(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. 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 nine months that period may be extended based on circumstances beyond the control of the applicant to a maximum of nine additional months. Any such cash not so used within such time periods is considered as an available resource.

(11) A burial plot, burial crypt or prepaid burial contract.

(12) Other resources excluded by federal statute. [Statutory Authority: RCW 74.08.090. 82-24-069 (Order 1916), § 388-92-045, filed 12/1/82; 82-10-062 (Order 1801), § 388-92-045, filed 5/5/82; 82-01-001 (Order 1725), § 388-92-045, filed 12/3/81; 81-10-014 (Order 1646), § 388-92-045, filed 4/27/81; 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 388-92-050 Limitation of resources. The total value of resources allowed and not otherwise excluded shall not exceed \$1,500 for a single individual or \$2,250 for a couple. [Statutory Authority : RCW 74.08-.090. 81-10-014 (Order 1646), § 388-92-050, filed 4/27/81; Order 898, § 388-92-050, filed 1/25/74.]

WAC 388-92-055 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-92-060 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-92-065 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-92-070 Repealed. See Disposition Table at beginning of this chapter.

Chapter 388-95 WAC**MENTAL INSTITUTIONS--AGE--MEDICAL ASSISTANCE--ELIGIBILITY**

WAC

388-95-275 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-95-275 Supportive social service by ESSO. [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.] Repealed by 82-01-042 (Order 1734), filed 12/16/81. Statutory Authority: RCW 74.08.090.

WAC 388-95-275 Repealed. See Disposition Table at beginning of this chapter.

Chapter 388-96 WAC**NURSING HOME ACCOUNTING AND REIMBURSEMENT SYSTEM**

WAC

388-96-010 Terms.
 388-96-015 Repealed.
 388-96-020 Prospective cost-related reimbursement.
 388-96-023 Conditions of participation.
 388-96-032 Termination of contract.
 388-96-108 Failure to submit final reports.
 388-96-110 Improperly completed or late reports.
 388-96-113 Completing reports and maintaining records.
 388-96-122 Amendments to reports.
 388-96-222 Settlement.
 388-96-223 Shifting.
 388-96-225 Date settlement becomes final.
 388-96-227 Interest on settlements.
 388-96-369 The provider shall maintain a subsidiary ledger with an account for each recipient for whom the provider holds money in trust.
 388-96-375 Trust moneys control/disbursement.
 388-96-384 Liquidation of trust fund.
 388-96-501 Allowable costs.
 388-96-503 Substance prevails over form.
 388-96-505 Offset of miscellaneous revenues.
 388-96-507 Costs of meeting standards.
 388-96-513 Limit on costs to related organizations.
 388-96-523 Organization costs.
 388-96-525 Education and training.
 388-96-529 Total compensation—Owners, relatives and certain administrative personnel.
 388-96-531 Owner or relative—Compensation.
 388-96-533 Maximum allowable compensation of certain administrative personnel.
 388-96-535 Management agreements, management fees and central office services.
 388-96-537 Repealed.
 388-96-539 Allowable interest.
 388-96-541 Offset of interest income.
 388-96-543 Expense for construction interest.
 388-96-545 Repealed.
 388-96-547 Operating leases of facilities and equipment.
 388-96-553 Capitalization.
 388-96-557 Depreciable assets.
 388-96-559 Depreciation base.
 388-96-561 Depreciation base—Donated or inherited assets.
 388-96-563 Repealed.
 388-96-565 Lives.
 388-96-567 Methods of depreciation.
 388-96-569 Retirement of depreciable assets.

388-96-571 Handling of gains and losses upon retirement of depreciable assets settlement periods prior to 1/1/81 and rate periods prior to 7/1/82.
 388-96-572 Handling of gains and losses upon retirement of depreciable assets—Other periods.
 388-96-585 Unallowable costs.
 388-96-587 Repealed.
 388-96-701 Repealed.
 388-96-704 Prospective reimbursement rates.
 388-96-705 Payment for services after settlement.
 388-96-707 Program services not covered by the reimbursement rate.
 388-96-713 Rate determination.
 388-96-716 Cost areas.
 388-96-719 Method of rate determination.
 388-96-720 Redistribution pool.
 388-96-722 Patient care cost area rate.
 388-96-727 Food cost area rate.
 388-96-735 Administration and operations cost area rate.
 388-96-743 Property cost area rate.
 388-96-750 Return on investment.
 388-96-760 Upper limits to reimbursement rate.
 388-96-763 Rates for recipients requiring exceptionally heavy care.
 388-96-769 Adjustments required due to errors or omissions.
 388-96-772 Requests for revision of a prospective rate.
 388-96-804 Billing procedures.
 388-96-807 Charges to patients.
 388-96-901 Disputes.
 388-96-902 Recoupment of undisputed overpayments.
 388-96-904 Administrative review process.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-96-015 Phase-in of other definitions. [Statutory Authority: RCW 74.09.120 and 74.46.800, 81-06-024 (Order 1613), § 388-96-015, filed 2/25/81.] Repealed by 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.
 388-96-537 Temporary contract labor. [Statutory Authority: RCW 74.09.120 and 74.46.800, 81-06-024 (Order 1613), § 388-96-537, filed 2/25/81.] Repealed by 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.
 388-96-545 Operating leases of equipment. [Statutory Authority: RCW 74.09.120 and 74.46.800, 81-06-024 (Order 1613), § 388-96-545, filed 2/25/81.] Repealed by 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.
 388-96-563 Depreciation base of assets previously used in medical care program. [Statutory Authority: RCW 74.09.120 and 74.46.800, 81-06-024 (Order 1613), § 388-96-563, filed 2/25/81.] Repealed by 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.
 388-96-587 Phase-in of other unallowable costs. [Statutory Authority: RCW 74.09.120 and 74.46.800, 81-06-024 (Order 1613), § 388-96-587, filed 2/25/81.] Repealed by 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.
 388-96-701 Reimbursement principles. [Statutory Authority: RCW 74.09.120, 78-02-013 (Order 1264), § 388-96-701, filed 1/9/78.] Repealed by 81-15-049 (Order 1669), filed 7/15/81. Statutory Authority: RCW 74.09.120.

WAC 388-96-010 Terms. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth in this section when used in this chapter.

(1) "Accrual method of accounting" - A method of accounting in which revenues are reported in the period when earned, regardless of when collected, and expenses

are reported in the period in which incurred, regardless of when paid.

(2) "Allowable costs" - See WAC 388-96-501.

(3) "Appraisal" - The process of establishing the fair market value or reconstructing the historical cost of an asset acquired in a past period as performed by an individual professionally designated either by the American institute of real estate appraisers as a member, appraisal institute (MAI), or by the society of real estate appraisers as a senior real estate analyst (SREA) or a senior real property appraiser (SRPA). Appraisal includes a systematic, analytic determination, the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.

(4) "Arm's-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.

(5) "Assets" - Economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles. "Assets" also include certain deferred charges which are not resources but which are recognized and measured in accordance with generally accepted accounting principles.

(6) "Bad debts" - Amounts considered to be uncollectable from accounts and notes receivable.

(7) "Beds" - Unless otherwise specified, the number of set-up beds in the nursing home, not to exceed the number of licensed beds.

(8) "Beneficial owner" - Any person who:

(a) Directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest.

(b) Directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter.

(c) Subject to subsection (2) of this section, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iv) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(v) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

Except that, any person who acquires an ownership interest or power specified in subsection (3)(a), (b), or (c) of this section with the purpose or effect of changing

or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power.

(d) Any person who in the ordinary course of business is a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised: *Provided, That*

(i) The pledge agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in subsection (2) of this section; and

(ii) The pledge agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or direct or to direct the vote of the pledged ownership interest; or

(B) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

(9) "Capitalization" - The recording of an expenditure as an asset.

(10) "Capitalized lease" - A lease which is required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

(11) "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 those expenditures and assets.

(12) "Change of ownership" - A change in the individual or legal organization which is responsible for the daily operation of a nursing home.

(a) Events which change ownership include but are not limited to the following:

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

(ii) Title to the nursing home enterprise is transferred by the contractor to another party;

(iii) The nursing home enterprise is leased, or an existing lease is terminated;

(iv) Where the contractor is a partnership, any event occurs which dissolves the partnership;

(v) Where the contractor is a corporation, the corporation is dissolved, merges with another corporation which is the survivor, or consolidates with one or more other corporations to form a new corporation.

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

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

(ii) If the contractor is a corporation, some or all of its stock is transferred.

(13) "Charity allowances" – Reductions in charges made by the contractor because of the indigence or medical indigence of a patient.

(14) "Contract" – A contract between the department and a contractor for the delivery of SNF or ICF services to medical care recipients.

(15) "Contractor" – An entity which contracts with the department to deliver care services to medical care recipients in a facility and which entity is responsible for operational decisions.

(16) "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.

(17) "CSO" – The local community services office of the department.

(18) "Department" – The department of social and health services (DSHS) and employees.

(19) "Depreciation" – The systematic distribution of the cost or other base of tangible assets, less salvage, over the estimated useful life of the assets.

(20) "Donated asset" – An asset which the contractor acquired without making any payment for the asset 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 the asset. An asset purchased using donated funds is not a donated asset.

(21) "Entity" – An individual partnership, corporation, or any other association of individuals capable of entering enforceable contracts.

(22) "Equity capital" – Total tangible and other assets which are necessary, ordinary, and related to patient care from the most recent provider cost report minus related total long-term debt from the most recent provider cost report plus working capital as defined in this section.

(23) "Exceptional care recipient" – A medical care recipient determined by the department to require exceptionally heavy care.

(24) "Facility" – A nursing home licensed in accordance with chapter 18.51 RCW, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

(25) "Fair market value" – The price for which an asset would have been purchased on the date of acquisition in an arm's-length transaction between a well-informed buyer and seller, neither being under any compulsion to buy or sell.

(26) "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.

(27) "Generally accepted accounting principles" – Accounting principles approved by the financial accounting standards board (FASB).

(28) "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 the fair market value of the asset.

(29) "Historical cost" – The actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.

(30) "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.

(31) "Imprest fund" – A fund which is regularly replenished in exactly the amount expended from it.

(32) "Interest" – The cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

(33) "Intermediate care facility" – A licensed facility certified to deliver intermediate care services to medical care recipients.

(34) "Joint facility costs" – Any costs representing expenses incurred which benefit more than one facility, or one facility and any other entity.

(35) "Levels of care" – The classification of types of services provided to patients by a contractor, e.g., skilled nursing care or intermediate care.

(36) "Medical care program" – Medical assistance provided under RCW 74.09.500 or authorized state medical care services.

(37) "Medical care recipient" – An individual determined eligible by the department for the services provided in chapter 74.09 RCW.

(38) "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.

(39) "Nonallowable costs" – Same as "unallowable costs."

(40) "Nonrestricted funds" – Funds which are not restricted to a specific use by the donor, e.g., general operating funds.

(41) "Nursing home" – A home, place or institution, licensed in accordance with chapter 18.51 RCW, in which skilled nursing and/or intermediate care services are delivered.

(42) "Operating lease" – A lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

(43) "Owner" – A sole proprietor, general or limited partner, or beneficial interest holder of five percent or more of a corporation's outstanding stock.

(44) "Ownership interest" – All interests beneficially owned by a person, calculated in the aggregate, regardless of the form which such beneficial ownership takes.

(45) "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.

(46) "Per diem (per patient day) costs" – Total allowable costs for a fiscal period divided by total patient days for the same period.

(47) "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.

(48) "Recipient" – A medical care recipient.

(49) "Regression analysis" – A statistical technique through which one can analyze the relationship between a dependent or criterion variable and a set of independent or predictor variables.

(50) "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 the entity has a five percent or greater ownership interest in the other, or if the entity has capacity, derived from any financial or other relationship, and whether or not exercised, to influence directly or indirectly the activities of the other.

(51) "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.

(52) "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 contractor has complete control. These generally fall into three categories:

(a) Funds restricted by the donor to specific operating purposes;

(b) Funds restricted by the donor for additions to property, plant, and equipment; and

(c) Endowment funds.

(53) "Secretary" – The secretary of the department of social and health services (DSHS).

(54) "Skilled nursing facility" – A licensed facility certified to deliver skilled nursing care services to medical care recipients.

(55) "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.

(56) "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. Start-up costs do not include expenditures for capital assets.

(57) "Title XIX" – The 1965 amendments to the Social Security Act, P.L. 89-07, as amended.

(58) "Unallowable costs" – Costs which do not meet every test of an allowable cost.

(59) "Uniform chart of accounts" – A list of account titles identified by code numbers established by the department for contractors to use in reporting costs.

(60) "Vendor number" – A number assigned to each contractor delivering care services to medical care recipients.

(61) "Working capital" – Total current assets which are necessary, ordinary, and related to patient care from the most recent cost report minus total current liabilities which are necessary, ordinary, and related to patient care from the most recent cost report. [Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-010, filed 10/13/82; 81-22-081 (Order 1712), § 388-96-010, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-010, filed 2/25/81. Statutory Authority: RCW 74.09.120. 80-09-083 (Order 1527), § 388-96-010, filed 7/22/80; 79-04-061 (Order 1381), § 388-96-010, filed 3/28/79. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-010, filed 6/1/78; Order 1262, § 388-96-010, filed 12/30/77.]

WAC 388-96-015 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-96-020 Prospective cost-related reimbursement. The prospective cost-related reimbursement system is the system used by the department to pay for skilled nursing facility services and intermediate care facility services provided to medical care recipients. Reimbursement rates for such services covering periods beginning on and after January 1, 1978, will be determined in accordance with the principles, methods and standards contained in this chapter. [Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-020, filed 10/13/82. 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 and/or ICF 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 74.09.120, 82-21-025 (Order 1892), § 388-96-023, filed 10/13/82. 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 or ICF services to a different class of medical care recipients at the same nursing home, the contractor is not required to submit final reports, and payment for the final thirty days will not be withheld.

(5) When a contract is terminated, any accumulated liabilities which are assumed by a new owner shall be

reversed against the appropriate accounts by the contractor. [Statutory Authority: RCW 74.09.120, 82-21-025 (Order 1892), § 388-96-032, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120, 78-06-080 (Order 1300), § 388-96-032, filed 6/1/78; Order 1262, § 388-96-032, filed 12/30/77.]

WAC 388-96-108 Failure to submit final reports.

(1) If a contract is terminated, the old contractor shall submit a final report as required by WAC 388-96-032(1) and 388-96-125(3). Such final reports must be received by the department within ninety days after the contract is terminated or prior to the expiration of any department-approved extension granted pursuant to WAC 388-96-107. If a final report is not submitted, all payments made to the contractor relating to the period for which a report has not been received shall be returned to the department within thirty days after receiving written demand from the department.

(2) Effective thirty days after written demand for payment is received by the contractor interest will begin to accrue payable to the department on any unpaid balance at the rate of one percent per month. [Statutory Authority: RCW 74.08.090, 82-21-025 (Order 1892), § 388-96-108, filed 10/13/82.]

WAC 388-96-110 Improperly completed or late reports.

(1) For 1981 and subsequent annual cost reporting periods, an annual report, including the proposed settlement computed by cost center pursuant to WAC 388-96-222, must be completed in accordance with applicable statutes, departmental regulations and instructions. An annual cost report deficient in any of these respects may be returned in whole or in part to the contractor for proper completion. Annual reports must be submitted by the due date determined in accordance with WAC 388-96-104.

(2) For purposes of establishing rates effective July 1, 1982, if a contractor has not corrected errors in an annual cost report, including the proposed settlement, according to subsection (1) of this section by May 15, 1982, such report shall be excluded from computation of the redistribution pool established pursuant to RCW 74.09.610(2)(b)(i) and the contractor shall be subject to the provisions of subsection (3) of this section.

(3) If a report is not properly completed or is not received by the department on or before the due date of the report, including any approved extensions, all or a part of any payments due under the contract may be held by the department until the improperly completed or delinquent report is properly completed and received by the department. [Statutory Authority: RCW 74.09.120, 82-09-033 (Order 1791), § 388-96-110, filed 4/14/82; 80-06-122 (Order 1510), § 388-96-110, filed 5/30/80, effective 7/1/80; Order 1262, § 388-96-110, filed 12/30/77.]

WAC 388-96-113 Completing reports and maintaining records.

(1) All reports shall be legible and reproducible. It is recommended that all entries be typed or in black ink.

(2) Reports shall be completed in accordance with instructions provided by the department. If no specific instruction covers a situation, generally accepted accounting principles shall be followed.

(3) The accrual method of accounting shall be used, except that for governmental institutions operated on a cash method of accounting, data based on this method of accounting will be acceptable. All revenue and expense accruals shall be reversed against the appropriate accounts if not received or paid within one hundred twenty days after the accrual is made, unless special circumstances are documented justifying continuing to carry all or part of the accrual (e.g., contested billings). Accruals for vacation, holiday, sick pay, and taxes may be carried for longer periods, provided the contractor's usual policy is followed.

(4) Methods of allocating costs shall be consistently applied. Written approval must be obtained from the department if a contractor wishes to change an allocation method. Contractors operating multiservice facilities or facilities incurring joint facility costs shall allocate costs using the methods approved by the department under WAC 388-96-534.

(5) The contractor's records relating to a nursing home shall be maintained so reported data can be audited for compliance with generally accepted accounting principles and the department's reimbursement principles and reporting instructions. Records shall be available for review by authorized personnel of the department and of the United States department of health and human services during normal business hours at a location in the state of Washington specified by the contractor.

(6) If a contractor fails to maintain records adequate for audit purposes as provided in subsection (5) of this section or fails to allow inspection of such records by authorized personnel as provided in subsection (5) of this section, the department may suspend all or part of subsequent reimbursement payments due under the contract until compliance is forthcoming. Upon compliance, the department shall resume current contract payments and shall release payments suspended pursuant to subsection (6) of this section. [Statutory Authority: RCW 74.09.120. 82-11-065 (Order 1808), § 388-96-113, filed 5/14/82; 80-09-083 (Order 1527), § 388-96-113, filed 7/22/80; Order 1262, § 388-96-113, filed 12/30/77.]

WAC 388-96-122 Amendments to reports. (1) For purposes of computing a settlement, 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 the errors or omissions 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 where changes appear need to be filed, together with the certification required by WAC 388-96-117.

(2) If an amendment is filed, a contractor shall also submit with the amendment an account of the circumstances relating to and the reasons for the amendment, along with supporting documentation. The department may refuse to consider an amendment resulting in a more favorable settlement to a contractor if the amendment is not the result of circumstances beyond the control of the contractor or the result of good-faith error under the system of cost allocation and accounting in effect during the reporting period in question. Amendments may be submitted for purposes of adjusting reimbursement rates in accordance with WAC 388-96-769; however, use in this regard does not mean an amendment will be used for settlement purposes in the absence of conditions specified in this subsection.

(3) Acceptance or use by the department of an amendment to a cost report shall in no way be construed as a release of applicable civil or criminal liability. [Statutory Authority: RCW 74.09.120. 82-11-065 (Order 1808), § 388-96-122, filed 5/14/82; 79-03-021 (Order 1370), § 388-96-122, filed 2/21/79; Order 1262, § 388-96-122, filed 12/30/77.]

WAC 388-96-222 Settlement. (1) Beginning with calendar year 1981, the contractor shall submit a proposed settlement report together with its annual cost report. This report shall 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 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) Settlement shall be in accordance with the following principles:

(a) 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;

(b) 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;

(c) In the property cost area, the contractor shall refund amounts determined under WAC 388-96-573 and, for settlement periods prior to January 1, 1981, amounts determined under WAC 388-96-571(4);

(d) In the return on equity cost area, the contractor shall refund amounts determined under WAC 388-96-750(4).

(3) The department will either accept or reject the proposed settlement report within ninety days after its receipt. If the department accepts the proposed settlement report, it will become the preliminary settlement. If the department rejects the proposed settlement report, the department will submit a preliminary settlement report to the contractor, which will become the preliminary settlement when sent to the contractor.

(4) 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 preliminary settlement report, unless the contractor's proposed settlement report was rejected by the department and 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 in billing or payment disclosed on the preliminary settlement report within thirty days after the settlement report is received by the contractor or within thirty days after proceedings to contest the settlement are concluded.

(5) If the contractor does not refund the overpayment and interest or any installment when due, the department may withhold payments from current billings until the overpayment is refunded. Payments will only be withheld under this subsection up to the unrefunded amount of the overpayment and interest.

(6) A preliminary settlement may be revised by the department on the basis of audit findings. Payments of amounts determined to be due on revised settlement to either the contractor or the department shall be made within the time limits specified in subsections (4) and (5) of this section. [Statutory Authority: RCW 74.09.120. 81-22-080 (Order 1716), § 388-96-222, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-222, filed 2/25/81. 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 388-96-223 Shifting. (1) In determining a contractor's settlement for calendar year 1981 and subsequent years, if allowable costs were less than the rate in any cost area, savings will be shifted (or "transferred") to cover any deficit in other cost areas.

(2) The amount shifted may not exceed twenty percent of the rate in the cost area into which the shift is made.

(3) No savings may be shifted into the property or return on equity cost areas. [Statutory Authority: RCW 74.09.120. 81-15-049 (Order 1669), § 388-96-223, filed 7/15/81; 80-15-114 (Order 1561), § 388-96-223, filed 10/22/80; Order 1262, § 388-96-223, filed 12/30/77.]

WAC 388-96-225 Date settlement becomes final.

(1) A settlement will become final thirty days after the date the revised settlement, if any, is received by the contractor unless the contractor contests the revised settlement in accordance with the procedures set out in WAC 388-96-904. In the event the revised settlement

determination is contested, the revised settlement will be final as of the date these proceedings are concluded.

(2) A preliminary settlement for calendar year 1981 or subsequent years will become final one hundred twenty days after the final audit narrative and summary is sent to the contractor, if no revised settlement is sent to the contractor prior to that date.

(3) A settlement for a settlement period prior to January 1, 1981, will be reopened if necessary to make adjustments in accordance with WAC 388-96-571(4). [Statutory Authority: RCW 74.09.120. 81-22-080 (Order 1716), § 388-96-225, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-225, filed 2/25/81; Order 1262, § 388-96-225, filed 12/30/77.]

WAC 388-96-227 Interest on settlements. (1) Any settlement for calendar year 1981 or a subsequent year in which an amount is due the department will bear interest at a rate of one percent per month from the date that the settlement is sent to the contractor to the date of payment, unless the contractor establishes that the overpayment was the result of errors made by the department.

(2) The contractor may, by payment of a disputed settlement in whole or in part, stop accrual of interest on the amount paid. Such payment will be without prejudice to any right to obtain review of a settlement determination. [Statutory Authority: RCW 74.09.120. 81-22-080 (Order 1716), § 388-96-227, filed 11/4/81.]

WAC 388-96-369 The provider shall maintain a subsidiary ledger with an account for each recipient for whom the provider holds money in trust. (1) Each account and related supporting information shall:

- (a) Be maintained at the facility,
- (b) Be kept current,
- (c) Be balanced each month, and
- (d) Show in detail, with supporting verification, all moneys received on behalf of the individual patient and the disposition of all moneys so received.

(2) Each account shall be available for audit and inspection by a department representative and be maintained for a minimum of three years. The provider further agrees to notify the community services office of the department when:

(a) The account of any individual certified on or before December 31, 1973, whose award letter indicates a limit of \$200.00 cash, reaches the sum of \$175.00.

The community services office will re-evaluate the status of each recipient certified under the eligibility criteria prior to January 1, 1974, who has an award letter specifying a \$200.00 cash limit.

(b) The account of any individual certified on or after January 1, 1974, whose award letter indicates a limit of \$1,500.00 reaches the sum of \$1,450.00.

(c) For both groups, the accumulation toward the limit, after admission to the facility, is permitted only from savings from the clothing and personal incidentals allowance and other income which the department specifically designates as exempt income from time to time.

(d) No patient account may be overdrawn (show a debit balance). If a patient wants to spend an amount greater than in such patient's trust account, the home may provide money from its own funds and collect the debt by installments from that portion of the patient's allowance remaining at the end of each month. No interest may be charged to patients for such loans.

(3) In order to ensure that patient trust accounts are not charged for services provided under the Title XIX program, any charge for medical services otherwise properly made to a patient's trust account must be supported by a written denial from the department.

(a) A request for additional equipment such as a walker, wheelchair or crutches must have a written denial from the department of social and health services before a patient trust account can be charged.

(b) Except as otherwise provided as follows, a request for physical therapy, restorative therapy, drugs, or other medical services must have a written denial from the local CSO before a patient trust account can be charged.

(c) A written denial from the local CSO is not required when the pharmacist verifies that a drug is not covered by the program (e.g., items on the FDA list of ineffective or possible effective drugs, nonformulary over-the-counter (OTC) medications such as vitamins, laxatives, nose drops, etc.). The pharmacist's notation to this effect is sufficient. [Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-369, filed 10/13/82; Order 1168, § 388-96-369, filed 11/3/76; Order 1114, § 388-96-369, filed 4/21/76.]

WAC 388-96-375 Trust moneys control/disbursement. Trust moneys shall be held in trust and are not to be turned over to anyone other than the recipient or his or her guardian without the written consent of the recipient, his or her designated agent as appointed by power of attorney, or appropriate department of social and health services personnel as designated by the CSO administrator.

(1) When moneys are received, a receipt should be filled out in duplicate; one copy should be given to the person making payment or deposit, and the other copy should be retained in the receipt book for easy reference.

(2) Checks received by patients must be endorsed by the patient. Schedule I-A(6e) of the agreement states in part: "Each patient receiving a check or state warrant is responsible for endorsement by his own signature. Only when the patient is incapable of signing his name may the Provider assume the responsibility of securing the patient's mark "X" followed by the name of the patient and the signature of two witnesses."

(3) If both the general fund account and the trust fund account are at the same bank, the trust portion of checks which include care payments can be deposited directly to trust by including a trust account deposit slip for the correct amount with the checks and the general account deposit slip.

(4) The patient's trust account ledger sheet must be credited with the allowance received. This should be referenced with the receipt number and must be supported

by a copy of the deposit slip (one copy for all deposits made). [Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-375, filed 10/13/82; Order 1168, § 388-96-375, filed 11/3/76; Order 1114, § 388-96-375, filed 4/21/76.]

WAC 388-96-384 Liquidation of trust fund. (1) Expired patient. The provider will obtain a receipt from next of kin, guardian, or duly qualified agent when releasing the balance of money held in trust. If there is no identified next of kin, guardian, or duly qualified agent, the CSO is to be contacted in writing within seven days for assistance in the release of the money held in trust. A check or other document showing payment to such next of kin, guardian, or duly qualified agent will serve as a receipt.

(2) Patient, unable to locate. In situations where the patient leaves the nursing home without authorization and his or her whereabouts are unknown:

(a) The nursing home will make a reasonable attempt to locate the missing patient. This includes: Contacting friends, relatives, police, the guardian, and the community services office in the area.

(b) If the patient cannot be located after ninety days, the nursing home must notify the department of revenue of the existence of "abandoned property," outlined in chapter 63.28 RCW. The nursing home will be required to deliver to the department of revenue the balance of the patient's trust fund account within twenty days following such notification. [Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-384, filed 10/13/82; Order 1168, § 388-96-384, filed 11/3/76; Order 1114, § 388-96-384, filed 4/21/76.]

WAC 388-96-501 Allowable costs. Allowable costs are documented costs which are necessary, ordinary and related to the care of medical care recipients, and are not expressly declared nonallowable by applicable statutes or regulations. Costs are ordinary if they are of the nature and magnitude which prudent and cost-conscious management would pay. [Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-501, filed 2/25/81. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-501, filed 6/1/78; Order 1262, § 388-96-501, filed 12/30/77.]

WAC 388-96-503 Substance prevails over form. (1) In determining allowable costs, the substance of a transaction will prevail over the form of the transaction. Accordingly, allowable costs will not include increased costs resulting from transactions or the application of accounting methods which circumvent the principles of the prospective cost-related reimbursement system.

(2) Increased costs resulting from a series of transactions between the same parties and involving the same assets (e.g., sale, and leaseback, successive sales or leases of a single facility or piece of equipment) will not be allowed. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-503, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-

024 (Order 1613), § 388-96-503, filed 2/25/81; Order 1262, § 388-96-503, filed 12/30/77.]

WAC 388-96-505 Offset of miscellaneous revenues.

(1) Allowable costs shall be reduced by the contractor whenever the item, service, or activity covered by such costs generates revenue or financial benefits (e.g., purchase discounts or rebates) other than through the contractor's normal billing for care services; except that, unrestricted grants, gifts, and endowments, and interest therefrom, will not be deducted from the allowable costs of a nonprofit facility.

(2) Where goods or services are sold, the amount of the reduction shall be the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, it shall be the full amount of the revenue received. Where financial benefits such as purchase discounts or rebates are received, the amount of the reduction shall be the amount of the discount or rebate.

(3) Only allowable costs shall be recovered under this section. Costs allocable to activities or services which are not included in SNF or ICF services (e.g., costs of vending machines, patients' personal laundry, and services specified in chapter 388-86 WAC which are not included in SNF or ICF services) are nonallowable costs. [Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-505, filed 10/13/82. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-505, filed 2/25/81. 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 care services meeting all applicable standards will be allowable costs. The expenses include necessary and ordinary costs of:

(1) Meeting licensing and certification standards;

(2) Meeting standards of providing regular room, nursing, ancillary, and dietary services, in accordance with WAC 388-88-050 and 388-88-051;

(3) Fulfilling accounting and reporting requirements imposed by this chapter; and

(4) Performing any patient assessment activity required by the department. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-507, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-507, filed 2/25/81. 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 388-96-513 Limit on costs to related organizations. (1) Costs applicable to services, facilities and supplies furnished by organizations related to the contractor shall be allowable only to the extent they do not exceed the lower of the cost to the related organization or the price of comparable services, facilities or supplies

purchased elsewhere. The term "related organization" is defined in WAC 388-96-010.

(2) Documentation of costs to related organizations shall be made available to the auditor at the time and place the financial records relating to the entity are audited. Payments to or for the benefit of the related organization will be disallowed where the cost to the related organization cannot be documented. [Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-513, filed 2/25/81; Order 1262, § 388-96-513, filed 12/30/77.]

WAC 388-96-523 Organization costs. (1) Necessary and ordinary costs which are directly incident to the creation of a corporation or other form of business of the contractor and that are incurred prior to the admission of the first patient, will be allowable if they are amortized over not less than sixty consecutive months beginning with the month in which the first patient is admitted for care.

(2) Allowable organization costs include but are not limited to legal fees incurred in establishing the corporation or other organization and fees paid to states for incorporation. They do not include costs relating to the issuance and sale of shares of capital stock or other securities. [Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-523, filed 2/25/81; Order 1262, § 388-96-523, filed 12/30/77.]

WAC 388-96-525 Education and training. (1) Necessary and ordinary expenses of on-the-job training and in-service training required for employee orientation and certification training directly related to the performance of duties assigned will be allowable costs.

(2) Ordinary expenses of nursing assistant training conducted pursuant to chapter 18.52A RCW will be allowable costs.

(3) Necessary and ordinary expenses of recreational and social activity training conducted by the contractor for volunteers will be allowable costs. Expenses of training programs for other nonemployees will not be allowable costs. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-525, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-525, filed 2/25/81. Statutory Authority: RCW 74.09.120. 80-06-122 (Order 1510), § 388-96-525, filed 5/30/80, effective 7/1/80; Order 1262, § 388-96-525, filed 12/30/77.]

WAC 388-96-529 Total compensation—Owners, relatives and certain administrative personnel. For purposes of the tests in WAC 388-96-531 and 388-96-533, total compensation includes gross salary or wages and fringe benefits (e.g., health insurance) made available to all employees, but excludes payroll taxes paid by the contractor. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-529, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-529, filed 2/25/81; Order 1262, § 388-96-529, filed 12/30/77.]

WAC 388-96-531 Owner or relative—Compensation. (1) Total compensation of an owner or relative of an owner shall be limited to ordinary compensation for necessary services actually performed.

(a) Compensation is ordinary if it is the amount usually paid for comparable services in a comparable facility to an unrelated employee, and does not exceed limits set out in this chapter.

(b) A service is necessary if it is related to patient care and would have had to be performed by another person if the owner or relative had not done it.

(2) The contractor, in maintaining customary time records adequate for audit, shall include such records for owners and relatives who receive compensation.

(3) For purposes of this section, if the contractor with the department is a corporation, "owner" includes all corporate officers and directors. [Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-531, filed 2/25/81; Order 1262, § 388-96-531, filed 12/30/77.]

WAC 388-96-533 Maximum allowable compensation of certain administrative personnel. (1) Compensation for administrative personnel shall be an allowable cost, subject to the limits contained in this section.

(2) Total compensation of the licensed administrator for services actually rendered to a nursing home on a full-time basis (at least forty 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 (5) of this section corresponding to the number of 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 the employment begins.

(3) Total compensation of not more than one full-time licensed assistant administrator will be allowable if there are at least eighty beds in the nursing home, at the lower of (a) actual compensation received, or (b) seventy-five percent of the appropriate amount in the table in subsection (5) of this section.

(4) Total compensation of not more than one full-time registered administrator-in-training will be allowable at the lower of (a) actual compensation received, or (b) sixty percent of the appropriate amount in the table in subsection (5) of this section.

(5)

TABLE

Maximum Allowable Total Compensation for Licensed Administrators—Calendar Year 1981

| Bed Size | |
|------------|----------|
| 1 - 79 | \$27,200 |
| 80 - 159 | \$30,100 |
| 160 and up | \$32,000 |

(6) A table to be promulgated by the department will apply for subsequent calendar years.

(7) If the licensed administrator, licensed assistant administrator, or registered administrator-in-training regularly work fewer than forty hours per week, allowable compensation shall be the lower of (a) actual compensation received, or (b) the appropriate amount in the table in subsection (5) of this section multiplied by the percentage derived from the division of the actual hours worked by forty hours. Further discounting is required if the person was licensed or registered and/or worked for less than the entire report period.

(8) The contractor shall maintain customary time records for the licensed administrator, assistant administrator, and/or administrator-in-training. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-533, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-533, filed 2/25/81. Statutory Authority: RCW 74.09.120. 80-06-122 (Order 1510), § 388-96-533, filed 5/30/80, effective 7/1/80. 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, management fees and central office services. (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 ninety days before the agreement 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 the amendment 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. When necessary for the health and safety of medical care recipients, the ninety-day notice requirement may be waived, in writing, by the department.

(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. To be allowable, fees must be for necessary, nonduplicative services.

(3) 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 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 the fee does not exceed the lesser of (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. Where costs to the related organization represent joint facility costs, the measurement of such costs shall comply with WAC 388-96-534.

(5) Central office joint facility costs for general management services, including the portion of a management expense which is not allocated to specific services, shall be subject to the management fee limits determined in subsections (3) and (4) of this section. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-535, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-535, filed 2/25/81. Statutory Authority: RCW 74.09.120. 80-09-083 (Order 1527), § 388-96-535, filed 7/22/80; 79-03-020 (Order 1371), § 388-96-535, filed 2/21/79; Order 1262, § 388-96-535, filed 12/30/77.]

WAC 388-96-537 Repealed. See Disposition Table at beginning of this chapter.

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 arm's-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 74.09.120. 81-22-081 (Order 1712), § 388-96-539, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-539, filed 2/25/81. 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 388-96-541 Offset of interest income. (1) In computing allowable costs, interest income from the investment or lending of nonrestricted funds shall be deducted from allowable interest expense.

(2) Interest income from the investment or lending of restricted funds shall not be deducted from allowable interest expense. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-541, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-541, filed 2/25/81; Order 1262, § 388-96-541, filed 12/30/77.]

WAC 388-96-543 Expense for construction interest. Interest expense and loan origination fees relating to construction of a nursing home incurred during the period of construction shall be capitalized and amortized over not less than sixty consecutive months from the date the first patient is admitted. The period of construction shall extend from the date of the construction loan to the date the facility is put into service for patient care. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-543, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-543, filed 2/25/81; Order 1262, § 388-96-543, filed 12/30/77.]

WAC 388-96-545 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-96-547 Operating leases of facilities and equipment. Rental or lease costs under arm's-length operating leases of facilities and/or equipment shall be allowable to the extent the cost is not in excess of arm's-length rental or lease costs of comparable facilities or equipment. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-547, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-547, filed 2/25/81; Order 1262, § 388-96-547, filed 12/30/77.]

WAC 388-96-553 Capitalization. The following costs shall be capitalized:

(1) Expenses for equipment with historical cost in excess of one hundred fifty dollars per unit and a useful life of more than one year from the date of purchase;

(2) Expenses for equipment with historical cost of one hundred fifty dollars or less per unit if either:

(a) The item was acquired in a group purchase where the total cost exceeded one hundred fifty dollars; or

(b) The item was part of the initial stock of the nursing home.

(3) Effective January 1, 1981, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods beginning July 1, 1982, and subsequently, subsection (1) of this section shall be applied with the sum of five hundred dollars replacing the sum of one hundred fifty dollars.

(4) Expenditures for building improvements and leasehold improvements in excess of five hundred dollars and involving one or more of the following:

(a) Increase the interior floor space of the structure;

(b) Increase paved areas outside the structure adjacent to or providing access to the structure;

(c) Modification of the exterior or interior walls of the structure;

(d) Installation of additional heating, cooling, electrical or water-related equipment;

(e) Remodeling or redecorating enhancing the value of the structure sufficiently to justify an increase in service charges to residents or patients;

(f) Increase the useful life of the structure by two years or more;

(g) For a leasehold improvement, the asset shall be amortized over the asset's useful life in accordance with internal revenue service class life ADR system guidelines or in accordance with American hospital association guidelines. [Statutory Authority: RCW 74.09.120. 82-11-065 (Order 1808), § 388-96-553, filed 5/14/82. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-553, filed 2/25/81; Order 1262, § 388-96-553, filed 12/30/77.]

WAC 388-96-557 Depreciable assets. (1) Tangible assets of the following types in which a contractor has an economic interest through ownership are subject to depreciation:

(a) Building - the basic structure or shell and additions thereto.

(b) Building fixed equipment - attachments to buildings, such as wiring, electrical fixtures, plumbing, elevators, heating system, and air conditioning system. The general characteristics of this equipment are:

(i) Affixed to the building and not subject to transfer; and

(ii) A fairly long life, but shorter than the life of the building to which affixed.

(c) Major movable equipment - such items as beds, wheelchairs, desks, and x-ray machines. The general characteristics of this equipment are:

(i) A relatively fixed location in the building;

(ii) Capable of being moved as distinguished from building equipment;

(iii) A unit cost sufficient to justify ledger control;

(iv) Sufficient size and identity to make control feasible by means of identification tags; and

(v) A minimum life of approximately three years. Effective January 1, 1981, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods beginning July 1, 1982, and subsequently, this equipment shall be characterized by a minimum life of greater than one year.

(d) Minor equipment - such items as waste baskets, bed pans, syringes, catheters, silverware, mops, and buckets which are properly capitalized. No depreciation shall be taken on items which are not properly capitalized (see WAC 388-96-553). The general characteristics of minor equipment are:

(i) In general, no fixed location and subject to use by various departments;

(ii) Small in size and unit cost;

(iii) Subject to inventory control;

(iv) Large number in use; and

(v) Generally, a useful life of one to three years.

(e) Land improvements - such items as paving, tunnels, underpasses, on-site sewer and water lines, parking

lots, shrubbery, fences, walls, etc., where replacement is the responsibility of the contractor.

(f) Leasehold improvements - betterments and additions made by the lessee to the leased property, which become the property of the lessor after the expiration of the lease.

(2) Land is not depreciable. The cost of land includes the cost of such items as off-site sewer and water lines, public utility charges necessary to service the land, governmental assessments for street paving and sewers, the cost of permanent roadways and grading of a nondepreciable nature, and the cost of curbs and sidewalks, replacement of which is not the responsibility of the contractor. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-557, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-557, filed 2/25/81; Order 1262, § 388-96-557, filed 12/30/77.]

WAC 388-96-559 Depreciation base. (1) The depreciation base shall be the historical cost of the contractor in acquiring the asset from an unrelated organization and preparing the asset for use, less goodwill and less accumulated depreciation which has been incurred during periods that the assets have been used in or as a facility by the contractor, such accumulated depreciation to be measured in accordance with subsection (4) of this section and WAC 388-96-561, 388-96-565, and 388-96-567. If the department challenges the historical cost of an asset, the department will have the fair market value of the asset at the time of purchase established by appraisal. The fair market value of items of equipment will be established by appraisals performed by vendors of the particular type of equipment. When the appraisals are conducted, the depreciation base of the asset will not exceed the fair market value of the asset. Estimated salvage value shall be deducted from historical cost where the straight-line or sum-of-the-years digits method of depreciation is used.

(2) Effective January 1, 1981, for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently, subsection (1) of this section shall be applied with the phrase "in an arm's-length transaction" replacing the phrase "from an unrelated organization."

(3) Effective July 1, 1982, in all cases subsection (1) of this section shall be applied with the phrase "in an arm's-length transaction" replacing the phrase "from an unrelated organization."

(4) Where depreciable assets are acquired from a related organization, the contractor's depreciation base shall not exceed the base the related organization had or would have had under a contract with the department. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-559, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-559, filed 2/25/81; Order 1262, § 388-96-559, filed 12/30/77.]

WAC 388-96-561 Depreciation base--Donated or inherited assets. (1) The depreciation base of donated

assets, as defined in WAC 388-96-010, or of assets received through testate or intestate distribution, shall be the lesser of (a) fair market value at the date of donation or death, less goodwill. Estimated salvage value shall be deducted from fair market value where the straight-line or sum-of-the-years digits method of depreciation is used; or (b) the depreciation base under the cost-related reimbursement program of the owner last contracting with the department, if any.

(2) If the donation or distribution is between related organizations, the base shall be the lesser of (a) fair market value, less goodwill and, where appropriate, salvage value, or (b) the depreciation base the related organization had or would have had for the asset under a contract with the department. [Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-561, filed 2/25/81; Order 1262, § 388-96-561, filed 12/30/77.]

WAC 388-96-563 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-96-565 Lives. (1) The contractor shall use lives no shorter than guideline lives contained in the internal revenue service class life ADR system or published by the American Hospital Association in computing allowable depreciation. The shortest life which may be used for buildings is thirty years.

(2) Lives shall be measured from the date of the most recent arm's-length acquisition of the asset.

(3) Building improvements shall be depreciated over the remaining useful life of the building, as modified by the improvement, but not less than fifteen years.

(4) Improvements to leased property which are the responsibility of the contractor under the terms of the lease shall be depreciated over the useful life of the improvement.

(5) A contractor may change the estimate of an asset's useful life to a longer life for purposes of depreciation. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-565, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-565, filed 2/25/81; Order 1262, § 388-96-565, filed 12/30/77.]

WAC 388-96-567 Methods of depreciation. (1) Buildings, land improvements, and fixed equipment shall be depreciated using the straight-line method. Major-minor equipment shall be depreciated using either the straight-line method, the sum of the years' digits method, or declining balance method not to exceed one hundred fifty percent of the straight-line rate. Contractors which have elected to take either the sum-of-the-years' digits method or the declining balance method of depreciation on major-minor equipment may change to the straight-line method without permission of the department.

(2) The annual provision for depreciation shall be reduced by the portion allocable to use of the asset for purposes not both necessary and related to patient care.

(3) No further depreciation shall be claimed after an asset has been fully depreciated unless a new depreciation base is established pursuant to WAC 388-96-559. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-567, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-567, filed 2/25/81; Order 1262, § 388-96-567, filed 12/30/77.]

WAC 388-96-569 Retirement of depreciable assets.

(1) Where depreciable assets are disposed of through sale, trade-in, scrapping, exchange, theft, wrecking, or fire or other casualty, depreciation shall no longer be taken on the assets. No further depreciation shall be taken on permanently abandoned assets.

(2) Where an asset has been retired from active use but is being held for stand-by or emergency service, and the department has determined that it is needed and can be effectively used in the future, depreciation may be taken. [Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-569, filed 2/25/81; Order 1262, § 388-96-569, filed 12/30/77.]

WAC 388-96-571 Handling of gains and losses upon retirement of depreciable assets settlement periods prior to 1/1/81 and rate periods prior to 7/1/82.

(1) For settlement purposes for periods prior to January 1, 1981, and for rate-setting purposes for periods prior to July 1, 1982, 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 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-571, filed 2/25/81. 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 388-96-572 Handling of gains and losses upon retirement of depreciable assets--Other periods. (1)

This section shall apply in the place of WAC 388-96-571 effective January 1, 1981, for purposes of settlement for settlement periods subsequent to that date, and for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently.

(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.

(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. [Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-572, filed 2/25/81.]

WAC 388-96-585 Unallowable costs. (1) Costs will be unallowable if not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) Unallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the medical care program. Costs of nonprogram items or services will be unallowable even if indirectly reimbursed by the department as the result of an authorized reduction in patient contribution.

(b) Costs of services and items provided to SNF or ICF recipients which are covered by the department's medical care program but not included in SNF or ICF services respectively. Items and services covered by the medical care program are listed in chapter 388-88 WAC.

(c) Costs associated with a capital expenditure subject to Section 1122 approval (Part 100, Title 42 C.F.R.) if the department found the capital expenditure 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 the costs are determined not to be reimbursable under applicable federal regulations.

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained.

(e) Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes, or related to the part of a facility leased out for office space).

(f) Salaries or other compensation of officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care.

(g) Costs in excess of limits or violating principles set forth in this chapter.

(h) Costs resulting from transactions or the application of accounting methods circumventing the principles of the prospective cost-related reimbursement system.

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities or supplies purchased elsewhere.

(j) Bad debts.

(k) Charity and courtesy allowances.

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations.

(m) Vending machine expenses.

(n) Expenses for barber or beautician services not included in routine care.

(o) Funeral and burial expenses.

(p) Costs of gift shop operations and inventory.

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except items used in patient activity programs where clothing is a part of routine care.

(r) Fund-raising expenses, except expenses directly related to the patient activity program.

(s) Penalties and fines.

(t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations.

(u) Federal, state, and other income taxes.

(v) Costs of special care services except where authorized by the department.

(w) Expenses of key-man insurance and other insurance or retirement plans not in fact made available to all employees.

(x) Expenses of profit-sharing plans.

(y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care.

(z) Personal expenses and allowances of owners or relatives.

(aa) All expenses of maintaining professional licenses or membership in professional organizations.

(bb) Costs related to agreements not to compete.

(cc) Goodwill and amortization of goodwill.

(dd) Expense related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care.

(ee) Legal and consultant fees in connection with a fair hearing against the department where a decision is rendered in favor of the department or where otherwise the determination of the department stands.

(ff) Legal and consultant fees in connection with a lawsuit against the department.

(gg) Lease acquisition costs and other intangibles not related to patient care.

(hh) Interest charges assessed by the state of Washington for failure to make timely refund of overpayments and interest expenses incurred for loans obtained to make such refunds. [Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-585, filed 10/13/82; 82-11-065 (Order 1808), § 388-96-585, filed 5/14/82; 81-22-081 (Order 1712), § 388-96-585, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-585, filed 2/25/81. Statutory Authority: RCW 74.09.120. 79-04-102 (Order 1387), § 388-96-585, filed 4/4/79. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-585, filed 6/1/78; Order 1262, § 388-96-585, filed 12/30/77.]

WAC 388-96-587 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-96-701 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-96-704 Prospective reimbursement rates.

(1) The department will determine prospective reimbursement rates for SNF and ICF 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 or ICF 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 74.09.120. 82-21-025 (Order 1892), § 388-96-704, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-704, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-704, filed 1/9/78.]

WAC 388-96-705 Payment for services after settlement. When payment for services is first made following preliminary or final settlement for the period during which the services were provided, payment will be at the most recent available settlement rate. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-705, filed 11/4/81.]

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 or ICF 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 74.09.120. 82-21-025 (Order 1892), § 388-96-707, filed 10/13/82. 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 388-96-713 Rate determination. (1) Each contractor's reimbursement rate will be determined prospectively at least once each calendar year to be effective July 1 and will be adjusted for inflation January 1 using the factors specified in WAC 388-96-719(3). Rates may be adjusted more frequently to take into account program changes.

(2) Where the contractor participated in the program during all or part of the prior fiscal period, its property and return on equity rates, and the nonwage component of its administration and operations rate, will be determined based on the contractor's allowable costs in the prior period. [Statutory Authority: RCW 74.09.120. 81-15-049 (Order 1669), § 388-96-713, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-713, filed 5/30/80, effective 7/1/80; 78-02-013 (Order 1264), § 388-96-713, filed 1/9/78.]

WAC 388-96-716 Cost areas. A contractor's overall reimbursement rate for medical care recipients consists of the total of five component rates, each covering one cost area. The five cost areas are:

- (1) Patient care;
- (2) Food;
- (3) Administration and operations;
- (4) Property; and

(5) Return on equity. [Statutory Authority: RCW 74.09.120. 81-15-049 (Order 1669), § 388-96-716, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-716, filed 5/30/80, effective 7/1/80; 78-02-013 (Order 1264), § 388-96-716, filed 1/9/78.]

WAC 388-96-719 Method of rate determination.

(1) 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 contractors.

(2) Data containing obvious errors, data for facilities which are out of compliance with any 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 upper limits for WAC 388-96-743 and 388-96-735(3).

(3)(a) Adjustments for inflation will be:

- (i) 5.0 percent for July 1, 1981, rate setting;
- (ii) 4.25 percent for January 1, 1982, rate setting; and
- (iii) No inflation adjustment increase shall be provided for setting rates effective July 1, 1982, through June 30, 1983. Inflation adjustments made to costs and other rate setting data used for this period shall reflect factors in subsection (3)(a)(i) and (3)(a)(ii) of this section.

(b) Property and return on equity rates will not be adjusted for inflation.

(4) 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. 82-17-071 (Order 1867), § 388-96-719, filed 8/18/82; 82-12-068 (Order 1820), § 388-96-719, filed 6/2/82; 82-04-073 (Order 1756), § 388-96-719, filed 2/3/82; 81-15-049 (Order 1669), § 388-96-719, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-719, filed 5/30/80, effective 7/1/80; 79-12-085 (Order 1461), § 388-96-719, filed 11/30/79; 78-11-043 (Order 1353), § 388-96-719, filed 10/20/78. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-719, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-719, filed 1/9/78.]

WAC 388-96-720 Redistribution pool. The department shall establish a redistribution pool consisting of overpayments to contractors for 1981, indicated by preliminary settlements, less one million dollars. This pool shall be distributed to contractors pursuant to WAC 388-96-722 and 388-96-735. [Statutory Authority: RCW 74.09.120. 82-11-065 (Order 1808), § 388-96-720, filed 5/14/82.]

WAC 388-96-722 Patient care cost area rate. (1) The patient care cost area reimbursement rate will reimburse for the necessary and ordinary costs of providing routine nursing and related services to recipients in accordance with WAC 388-88-050 and 388-88-051.

(2) Effective July 1, 1982, the patient care cost area rate will be computed according to this section.

(3)(a) For purposes of this section, patient care consultation refers to medical director, pharmaceutical, occupational therapy, physical therapy, speech therapy, other therapy, and patient activities consultation.

(b) The department shall determine the average per patient day expense weighted by patient days for patient care consultation taken from completed 1981 cost reports.

(c) The department shall determine each contractor's per patient day expense for patient care consultation.

(d) A contractor's reported patient care cost will be reduced by the amount the contractor's patient care consultation expense exceeds the average expense computed as provided in subsection (3)(b) of this section.

(e) As used in this section, "desk-reviewed patient care cost" shall be allowable patient care cost as determined by desk reviews conducted in accordance with WAC 388-96-201, including any reduction in expense for patient care consultation computed in accordance with subsection (3)(d) of this section.

(4) Effective July 1, 1982, through June 30, 1983, only:

(a) If a contractor's weighted patient care rate for 1981 as computed in accordance with departmental regulations and instructions is equal to or greater than the

contractor's desk-reviewed 1981 patient care costs, the department shall reimburse the patient care cost center at the desk-reviewed 1981 patient care costs plus any patient care funds shifted to other cost centers pursuant to WAC 388-96-223, as adjusted for inflation.

(b) If a contractor's patient care rate for 1981 is less than the contractor's desk-reviewed 1981 patient care costs, the department shall reimburse the contractor's patient care cost at the January 1, 1982, reimbursement rate, less one and one-half percent, as adjusted for inflation, plus an allowance from the redistribution pool. The total reimbursement paid to a contractor, including any allowance from the redistribution pool, shall not exceed the contractor's 1981 desk-reviewed patient care costs, as adjusted for inflation. The total of allowances distributed pursuant to subsection (4)(b) of this section shall not exceed the total amount in the redistribution pool. If the total of funds in the redistribution pool is equal to or exceeds the total amount of underfunding for patient care for all contractors, each contractor's allowance shall be the amount the contractor was underfunded for patient care, if any, where underfunding is defined as any excess of 1981 desk-reviewed cost over the 1981 rate in this cost area, as adjusted for inflation. If the total of funds in the redistribution pool is less than the total patient care underfunding for all contractors, the allowance distributed to each contractor shall be a percentage of the amount a contractor was underfunded, as defined in subsection (4)(b) of this section, for patient care, if any was experienced by the contractor. The percentage shall be computed by dividing the total of funds in the pool by the total amount of underfunding for all contractors.

(5) To patient care cost area rates determined in accordance with subsections (4)(a) and (b) of this section, a patient care enhancement shall be added. The enhancement shall be distributed among facilities proportionately based upon patient care cost area rates and shall not be adjusted for inflation. The total of enhancements distributed to contractors shall be one million, four hundred thousand dollars. [Statutory Authority: RCW 74.09.120. 82-11-065 and 82-13-050 (Orders 1808 and 1808A), § 388-96-722, filed 5/14/82 and 6/14/82; 81-15-049 (Order 1669), § 388-96-722, filed 7/15/81; 81-06-024 (Order 1613), § 388-96-722, filed 2/25/81; 80-06-122 (Order 1510), § 388-96-722, filed 5/30/80, effective 7/1/80; 79-12-085 (Order 1461), § 388-96-722, filed 11/30/79. Statutory Authority: RCW 18.51.310 and 74.09.120. 78-11-013 (Order 1349), § 388-96-722, filed 10/9/78. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-722, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-722, filed 1/9/78.]

WAC 388-96-727 Food cost area rate. (1) The food cost area rate will reimburse for the necessary and ordinary costs of procuring food, dietary supplements, and beverages for meals and between-meal nourishment for recipients.

(2) Beginning July 1, 1981, food reimbursement will be at the January 1, 1981, rate, adjusted for inflation. [Statutory Authority: RCW 74.09.120. 81-15-049 (Order 1669), § 388-96-727, filed 7/15/81; 79-12-085 (Order 1461), § 388-96-727, filed 11/30/79; 78-02-013 (Order 1264), § 388-96-727, filed 1/9/78.]

WAC 388-96-735 Administration and operations cost area rate. (1) The administration and operations cost area reimbursement rate will reimburse for 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) For rates effective July 1, 1982, through June 30, 1983, a contractor's administration and operations wage component reimbursement rate will be set pursuant to subsection (2) of this section.

(a) If a contractor's administration and operations wage component rate for 1981 is greater than or equal to the contractor's desk-reviewed 1981 wage component costs, the department shall reimburse the contractor's wage component at the desk-reviewed 1981 administration and operations wage component costs, as adjusted for inflation.

(b) If a contractor's administration and operations wage component rate for 1981 is less than the contractor's desk-reviewed 1981 wage component costs, the department shall reimburse the contractor's wage component costs at the January 1, 1981, reimbursement rate, as adjusted for inflation.

(c) It is further provided, if any funds remain in the redistribution pool established pursuant to WAC 388-96-720 after distribution to contractors pursuant to WAC 388-96-722, the department shall distribute the funds to contractors underfunded in the wage component area, as determined by subsection (2)(b) of this section, according to the following rules:

(i) If the amount remaining in the redistribution pool exceeds or is equal to the total amount the contractors were underfunded in the wage component area, each contractor's allowance shall be the amount the contractor was underfunded for costs in this component, if any, where underfunding is defined as any excess of 1981 desk-reviewed cost over the 1981 rate in this component, as adjusted for inflation.

(ii) If the amount remaining in the redistribution pool is less than the total amount the contractors were underfunded in the wage component area, each contractor shall receive an allowance which shall be a percentage of the amount the contractor was underfunded as defined in subsection (2)(c)(i) of this section. The percentage shall be computed by dividing the amount remaining in the redistribution pool by the total amount of underfunding in the wage component area for all contractors.

(iii) The distribution shall not exceed the total amount of underfunded wage component costs for all contractors

nor the amount remaining in the redistribution pool, if any.

(3) For the July 1, 1982, to June 30, 1983, reimbursement period, the nonwage component of the administration and operations cost center shall be adjusted for certain consultation expenses as follows: The department shall calculate the average expense, weighted by patient days, for dietary, and medical record consultant services taken from the most recent, completed cost reports from all contractors and allowable administration and operations costs as defined in subsection (4)(a) of this section, shall exclude the amount a contractor's administration and operations consultation expense exceeds the average expense so calculated.

(4) The nonwage component of the administration and operations cost area reimbursement rate will be calculated as follows:

(a) Allowable administration and operations costs, including wages of administrators, assistant administrators, and administrators-in-training, but excluding wages of other support staff, will be taken from the most recent desk-reviewed annual cost report.

(b) Beginning July 1, 1982, if any amounts were shifted into the administration and operations cost area during the period covered by the most recent annual cost report, an annualized amount will be subtracted from administration and operations nonwage costs determined by the following formula:

$$AS = SS \times DR \quad \text{where}$$

(i) "AS" is the amount to be subtracted from administration and operations nonwage costs;

(ii) "SS" is the amount of savings shifted into the administration and operations cost area; and

(iii) "DR" is the deficiency ratio, defined as the ratio of:

(A) Administration and operations nonwage costs minus the nonwage component of the administration and operations prospective rate; to

(B) Total administration and operations costs minus the total administration and operations prospective rate.

This ratio may not be less than zero nor more than one.

(c) Adjusted costs will be updated using factors specified in WAC 388-96-719.

(d) Reimbursement for this portion of administration and operations will be limited to the eighty-fifth percentile of costs, adjusted as described in subsection (4)(b) of this section, of all reporting facilities, except that facilities may be grouped by factors other than ownership or legal organizational characteristics, which could reasonably influence cost requirements for administration and operations. [Statutory Authority: RCW 74.09.120. 82-11-065 (Order 1808), § 388-96-735, filed 5/14/82; 81-15-049 (Order 1669), § 388-96-735, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-735, filed 5/30/80, effective 7/1/80; 79-12-085 (Order 1461), § 388-96-735, filed 11/30/79; 78-02-013 (Order 1264), § 388-96-735, filed 1/9/78.]

WAC 388-96-743 Property cost area rate. Property reimbursement for both leased and owner-operated facilities will 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, recognizing factors which may be significant, including location, age, and construction type of facility. Beginning July 1, 1981, rental costs of leased facilities and depreciation and interest costs of owner-operated facilities, for leases or mortgages entered into prior to July 1, 1979, will be reimbursed to the extent they do not exceed the reimbursement rate payable for the property cost center as of June 30, 1979, or July 1, 1979, whichever is higher, adjusted to meet any discrepancies as determined by the federal government between the reimbursements made and the approved state Medicaid plan, and adjusted for any approved capitalized additions or replacements. [Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-743, filed 10/13/82; 81-15-049 (Order 1669), § 388-96-743, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-743, filed 5/30/80, effective 7/1/80; 79-12-085 (Order 1461), § 388-96-743, filed 11/30/79; 78-02-013 (Order 1264), § 388-96-743, filed 1/9/78.]

WAC 388-96-750 Return on investment. (1) Beginning January 1, 1979, the department will pay a return on equity to proprietary contractors utilizing applicable Medicare rules and regulations as of July 1, 1979, with the following modifications:

(a) Monthly equity calculations will not be used. A desk review of reported equity will be conducted pursuant to WAC 388-96-201. The average ratio among proprietary contractors of current assets to expenses will be computed from the most recent desk reviewed cost reports. The standard deviation of the ratio and the average ratio plus one standard deviation will also be computed. Current assets in excess of the average ratio plus one standard deviation will not be allowed unless the contractor can document that the excess is ordinary, necessary, and related to patient care. No adjustments will be made to reported equity insofar as changes reflect additions to fixed assets which are ordinary, necessary, and related to patient care.

(b) Good will is not includable in the determination of net equity.

(c) Net equity and the payment for net equity shall be calculated as described in subsections (2) and (3) of this section.

(2) A contractor's net equity will be calculated using the appropriate items from the contractor's most recent desk reviewed cost report utilizing the definition of equity in WAC 388-96-010 and applying relevant Medicare rules and regulations as of July 1, 1979, with the modifications described in subsection (1) of this section.

(3) The contractor's net equity will be multiplied by the Medicare rate of return on equity capital for the twelve-month period ending on the date of the closing date of the contractor's cost report. This amount will be divided by the contractor's annual patient days for the

cost report period to determine a rate per patient day. Where a contractor's cost report covers less than a twelve-month period, annual patient days will be estimated using the contractor's reported patient days.

(4) The information on which the return on equity is calculated is subject to field audit. If a field audit determines that the desk reviewed reported equity exceeds the equity which can be documented and calculated in conformance with Medicare rules and regulations as modified by this section, the contractor's return on equity rate for the rate period during which a return on equity rate calculated on the basis of that cost report was in effect shall be recalculated using the determinations of the field audit. Any payments in excess of this rate shall be refunded to the department as part of the settlement procedure established by WAC 388-96-222. In particular, subsections (4), (5), and (6) of WAC 388-96-222 shall apply.

(5) For the period January 1, 1978, through June 30, 1979, the rate of return used to calculate this return on investment will be eleven percent.

(6) 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. 81-22-080 (Order 1716), § 388-96-750, filed 11/4/81; 80-15-114 (Order 1561), § 388-96-750, filed 10/22/80; 80-06-122 (Order 1510), § 388-96-750, filed 5/30/80, effective 7/1/80; 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 C.F.R. 447.316. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-760, filed 11/4/81. 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 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 74.09.120. 82-21-025 (Order 1892), § 388-96-763, filed 10/13/82. Statutory Authority: RCW 74.08-.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-763, filed 6/1/78. Statutory Authority: RCW 74.09-.120. 78-02-013 (Order 1264), § 388-96-763, filed 1/9/78.]

WAC 388-96-769 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 the effective date of the adjustment, and of any amount due to the department or to the contractor as a result of the rate adjustment. Rates adjusted in accordance with this section will be effective as of the effective date of the original rate.

(2) If a contractor claims an error or omission based upon incorrect cost reporting, amended cost report pages shall be prepared and submitted by the contractor. Amended pages shall be accompanied by the certification required by WAC 388-96-117 and a written justification explaining why the amendment is necessary. Such amendments shall not be accepted for settlement purposes unless the amendments meet the requirements of WAC 388-96-122, but may be used for purposes of revising a prospective rate. If changes made by the amendments are determined to be material by the department, such amended pages shall be subject to field audit. If a field audit determines the amendments are incorrect or otherwise unacceptable, any rate adjustment based on the amendment shall be null and void. Payments based upon the rate adjustment shall be subject to repayment as provided in subsection (3) of this section.

(3) The contractor shall pay an amount owed the department 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 forth 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.

(4) The department shall pay any amount owed the contractor as a result of a rate adjustment within thirty days after the contractor is notified of the rate adjustment.

(5) No adjustments will be made to a rate more than one hundred twenty days after the final audit narrative and summary for the period the rate was effective is sent to the contractor. [Statutory Authority: RCW 74.09-.120. 82-11-065 (Order 1808), § 388-96-769, filed 5/14/82; 81-22-081 (Order 1712), § 388-96-769, filed 11/4/81; 78-02-013 (Order 1264), § 388-96-769, filed 1/9/78.]

WAC 388-96-772 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 the rate, or of significant changes in actual costs incurred or anticipated, and an analysis of the financial impact of the changes.

(2) A revision may be granted if the department determines that the changes will cause the contractor substantial hardship. Such hardship will be determined on the basis of all applicable facts and circumstances, but will not be deemed to exist unless the changes in costs or factors are expected to result in increased costs exceeding fifteen cents per patient day.

(3) 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 the request. Unless otherwise specified, a revised rate shall be effective as of the first day of the month in which the revised rate is issued.

(4) 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. 81-22-081 (Order 1712), § 388-96-772, filed 11/4/81; 78-02-013 (Order 1264), § 388-96-772, filed 1/9/78.]

WAC 388-96-804 Billing procedures. (1) A contractor shall bill the department each month by completing and returning the nursing home statement provided by the department. This form shall be completed and filed in accordance with instructions issued by the department.

(2) A contractor shall not bill the department for service provided to a recipient until an award letter relating to the recipient has been received except in accordance with department policies and procedures. At that time it may bill for service provided back through the date the recipient was admitted or became eligible.

(3) Billing shall not cover the day of a recipient's death, discharge or transfer from the nursing home. [Statutory Authority: RCW 74.09.120. 82-20-024 and 82-20-036 (Orders 1883 and 1883A), § 388-96-804, filed 9/29/82 and 9/30/82; Order 1262, § 388-96-804, filed 12/30/77.]

WAC 388-96-807 Charges to patients. (1) The department will notify a contractor of the amount each medical care recipient is required to pay for care provided under the contract and the effective date of such required contribution. It is the contractor's responsibility

to collect that portion of the cost of care from the patient, and to account for any authorized reduction from his or her contribution in accordance with procedures established by the department.

(2) If a contractor receives documentation showing a change in the income or resources of a recipient which will mean a change in his or her contribution toward the cost of care, this shall be reported in writing to the CSO within seventy-two hours. If necessary, appropriate corrections shall be made in the next nursing home statement, and a copy of documentation supporting the change shall be attached. If increased funds for a recipient are received by a contractor, the normal amount shall be allowed for clothing, personal and incidental expense, and the balance applied to the cost of care.

(3) The contractor shall accept the reimbursement rate established by the department as full compensation for all services it is obligated to provide under the contract. It shall not seek or accept additional compensation from or on behalf of a recipient for any or all such services. [Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-807, filed 10/13/82; Order 1262, § 388-96-807, filed 12/30/77.]

WAC 388-96-901 Disputes. (1) If a reimbursement rate issued to a contractor is believed to be incorrect because it is based on errors or omissions by the contractor or department, the contractor may request an adjustment pursuant to WAC 388-96-769. Pursuant to WAC 388-96-904(1) a contractor may within thirty days request an administrative review after notification of an adjustment or refusal to adjust.

(2) If a contractor wishes to contest the way in which a rule, contract provision, or policy statement relating to the prospective cost-related reimbursement system was applied to the contractor by the department, e.g., in setting a reimbursement rate or determining a disallowance at audit, it shall first pursue the administrative review process set out in WAC 388-96-904.

(3) The administrative review and fair hearing process set out in WAC 388-96-904 need not be exhausted if a contractor wishes to challenge the legal validity of a statute, rule, contract provision or policy statement. [Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-901, filed 10/13/82; Order 1262, § 388-96-901, filed 12/30/77.]

WAC 388-96-902 Recoupment of undisputed overpayments. The department is authorized to withhold from the nursing home current payment all amounts found by preliminary or final settlement to be overpayments not identified by the nursing home and challenged as overpayments as part of a good-faith administrative or judicial review. Contested amounts retained by the nursing home pursuant to this section may be subject to recoupment by the department from the nursing home current payment upon completion of judicial and administrative review procedures to the extent the department's position or claims are upheld. [Statutory Authority: RCW 74.09.120. 82-11-065 (Order 1808), § 388-96-902, filed 5/14/82.]

WAC 388-96-904 Administrative review process.

(1) Within thirty days after a contractor is notified of an action or determination it wishes to challenge, it shall request in writing that the director, bureau of nursing home affairs or his or her designee (director, BNHA) review such determination. The request shall be signed by the contractor or the licensed administrator of the facility, shall identify the challenged determination and the date thereof, and shall state as specifically as practicable the issues and regulations involved and the grounds for its contention that the determination is erroneous. Copies of any documentation on which the contractor intends to rely to support its position shall be included with the request.

(2) After receiving a timely request meeting the criteria of this section, the department will contact the contractor to schedule a conference for the earliest mutually convenient time. The conference shall be scheduled for no later than thirty days after a properly completed request is received unless both parties agree in writing to a specific later date. The conference may be conducted by telephone unless either the department or the contractor requests in writing that the conference be held in person.

(3) The contractor and appropriate representatives of the department shall participate in the conference. In addition, representatives selected by the contractor may participate. The contractor shall bring to the conference, or provide to the department in advance of the conference, any documentation requested by the department which the contractor is required to maintain for audit purposes pursuant to WAC 388-96-113 and any documentation on which it intends to rely to support its contentions. The parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty days after the initial session unless both parties agree in writing to a specific later date.

(4) Regardless of whether agreement has been reached at the conference, a written decision by the director, BNHA or his or her designee will be furnished to the contractor within sixty days after the conclusion of the conference.

(5) If the contractor desires review of an adverse decision of the director, BNHA, or his or her designee, it shall within thirty days following receipt of such decision request a fair hearing in writing in accordance with the Administrative Procedure Act, chapter 34.04 RCW. [Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-904, filed 10/13/82; Order 1262, § 388-96-904, filed 12/30/77.]

Chapter 388-99 WAC

LIMITED CASUALTY PROGRAM--MEDICALLY NEEDY

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WAC 388-99-005 Limited casualty program—Medically needy. (1) The department of social and health services provides a limited casualty program of medical care, administered through the division of medical assistance, designed to meet the health care needs of persons not categorically needy for medical assistance.

(2) A medically needy individual is defined as a person who is aged, blind, or disabled, or families and children whose income and/or resources are above the limits prescribed for the categorically needy but are within limits set for the medically needy program. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-99-005, filed 12/3/81; 81-16-032 (Order 1684), § 388-99-005, filed 7/29/81.]

WAC 388-99-010 Persons eligible for medically needy assistance. (1) Medically needy refers to a resident of the state of Washington whose income and/or resources are above the limits prescribed for the categorically needy and who meets the resource limits of the SSI program and is:

(a) Related to aid to families with dependent children (AFDC). See chapter 388-83 WAC.

(b) Related to supplemental security income (SSI). See chapter 388-92 WAC.

(c) Related to state supplementary payment program (SSP).

(d) A financially eligible person under age twenty-one who is in:

(i) Foster care, or

(ii) Subsidized adoption, or

(iii) Skilled nursing facility, intermediate care facility, intermediate care facility/mentally retarded,

(iv) An approved inpatient psychiatric facility.

(e) Aged, blind, and disabled individuals residing in a medical facility whose income is above the three hundred percent of the SSI benefit cap.

(2) Groups defined as categorically needy rather than medically needy are:

(a) Those described in chapters 388-82 and 388-93 WAC, and

(b) SSI presumptively eligible. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-99-010, filed 12/3/81; 81-16-032 (Order 1684), § 388-99-010, filed 7/29/81.]

WAC 388-99-015 Eligibility—General. All applicants for the limited casualty program—medically needy are required to meet the requirements of WAC 388-83-010 through 388-83-025. [Statutory Authority: RCW

74.08.090. 81-16-032 (Order 1684), § 388-99-015, filed 7/29/81.]

WAC 388-99-020 Eligibility determination—Medically needy in own home. (1) The medically needy income level (MNIL) shall be:

| | |
|------------------------------|----------|
| (a) One person | \$ 323 |
| (b) Two persons | \$ 463 |
| (c) Three persons | \$ 497 |
| (d) Four persons | \$ 531 |
| (e) Five persons | \$ 612 |
| (f) Six persons | \$ 693 |
| (g) Seven persons | \$ 802 |
| (h) Eight persons | \$ 887 |
| (i) Nine persons | \$ 974 |
| (j) Ten persons and above | \$ 1,058 |

(2) For families and children countable income is determined by deducting, from gross income, amounts that would be deducted in determining AFDC grant eligibility. Earned income exemption of \$30 plus 1/3 of the remainder does not apply for individuals applying solely for medical assistance.

(3) For aged, blind, and disabled individuals countable income is determined by deducting, from gross income, amounts that would be deducted in determining eligibility for the state supplementary payment.

(4) If countable income is equal to or less than the appropriate MNIL, the family or individual is certified eligible.

(5) If countable income is greater than the appropriate MNIL, the applicant is required to spenddown the excess countable income for the base period. The base period shall be the three-month or six-month period which corresponds to the certification period, see WAC 388-99-055.

(6) Financial responsibility of relatives.

(a) For families and children,

(i) Income and resources of spouse or parent are considered available to the applicant whether or not actually contributed if they live in the same household.

(ii) Income and resources of spouse or parent are considered only to the extent of what is actually contributed if not in same household.

(b) For aged, blind, and disabled, see chapter 388-92 WAC for deeming of income.

(7) In mixed households (AFDC and SSI related members) eligibility shall be determined as for families and children. [Statutory Authority: RCW 74.08.090. 83-01-058 (Order 1925), § 388-99-020, filed 12/15/82; 82-17-072 (Order 1868), § 388-99-020, filed 8/18/82; 82-10-062 (Order 1801), § 388-99-020, filed 5/5/82; 82-01-001 (Order 1725), § 388-99-020, filed 12/3/81; 81-16-032 (Order 1684), § 388-99-020, filed 7/29/81.]

WAC 388-99-030 Allocation of excess income—Spendedown. (1) On initial or subsequent applications previously incurred medical expenses are deducted from

excess countable income subject to the following restrictions.

(a) The medical expense must be a current liability of the individual or financially responsible relative in the same household. See WAC 388-92-025(4).

(b) The medical expenses have not been used at any other time to reduce excess countable income on a medical application which resulted in eligibility.

(c) The portion of the medical expense paid or covered by third-party liability can not be considered toward spenddown.

(d) Only medical services provided by practitioners recognized under state law will be considered. See WAC 388-87-005.

(e) Certain services recognized under state law will not be considered.

(f) Medical services recognized for purposes of reducing excess countable income are stated in chapters 388-86 and 388-91 WAC, and shall include chiropractic and adult dental services.

(2) If the incurred medical bills equal or exceed the excess countable income at the time of application, the applicant is certified eligible.

(3) If the incurred medical bills are less than the excess countable income, the application is not approved and the individual is required to spenddown the remaining excess countable income. The applicant is certified eligible only when excess countable income has been completely spentdown. Medical expenses incurred during the spenddown period are deducted in the following order:

(a) Medicare and other health insurance premiums, deductibles, coinsurance charges, enrollment fees, or copayments.

(b) Expenses for necessary medical and remedial care not covered by the limited casualty program.

(c) Expenses for necessary medical and remedial care covered by the limited casualty program which have been paid by the applicant.

(d) Expenses for necessary medical and remedial care covered by the limited casualty program which have not been paid.

(4) The applicant is responsible for providing complete documentation of incurred medical expenses. Once medical eligibility has been approved, expenses which were not listed or which were omitted will not be considered. Such expenses may be used to reduce excess countable income on a subsequent application provided the conditions in subsection (1) of this section are met.

(5) The applicant is liable for any expenses incurred prior to the spenddown satisfaction date. [Statutory Authority: RCW 74.08.090, 82-01-001 (Order 1725), § 388-99-030, filed 12/3/81; 81-16-032 (Order 1684), § 388-99-030, filed 7/29/81.]

WAC 388-99-035 Resource standards. (1) To determine eligibility on the basis of resources, use the SSI resource standards. If applicant has resources in excess of the standards applied, the individual is not eligible and the application is denied.

(2) See WAC 388-92-043 for regulations on transfer of resources without adequate consideration. [Statutory Authority: RCW 74.08.090, 82-10-062 (Order 1801) and 82-11-034 (Order 1809), § 388-99-035, filed 5/5/82 and 5/11/82; 82-10-017 (Order 1776), § 388-99-035, filed 4/28/82; 81-16-032 (Order 1684), § 388-99-035, filed 7/29/81.]

WAC 388-99-040 Availability of resources. (1) Consider resources according to chapter 388-92 WAC.

(2) Consider only resources available during the period for which income is computed.

(3) For families and children deduct the value of resources which would be deducted in determining AFDC eligibility.

(4) For aged, blind, and disabled, deduct the value of resources which would be deducted in determining eligibility for SSI. [Statutory Authority: RCW 74.08.090, 81-16-032 (Order 1684), § 388-99-040, filed 7/29/81.]

WAC 388-99-045 Medically needy--Eligibility determination--Institutional. (1) Individuals are considered institutionalized if they reside in a medical facility at least a full calendar month.

(a) SSI/state supplement-related individuals in medical facilities are medically needy if their gross income exceeds three hundred percent of the SSI benefit (SSI cap). AFDC-related individuals in medical facilities are medically needy if countable income exceeds the one-person AFDC grant standard.

(b) Determination of countable income. Countable income of a medically needy applicant residing in a nursing home is determined by deducting the following amounts from gross income:

(i) Amounts that would be deducted in determining either AFDC eligibility or for aged, blind, and disabled persons, amounts that would be deducted in determining eligibility for the state supplementary payment.

(ii) Previously incurred medical expenses that are not subject to third party payment and which are the current liability of the applicant.

(c) Medically needy nursing home residents will be determined eligible if their countable income is less than department's contracted rate plus verifiable recurring medical expenses. These individuals will participate in the cost of their nursing home care. Once it is established that an applicant meets the medically needy financial eligibility, see WAC 388-83-140 for post-eligibility allocation of income.

(d) Applicants for the medically needy program with countable income above the private nursing home rate plus verifiable recurring medical expenses are ineligible.

(e) Individuals with countable incomes below the private nursing home rate plus recurring medical expenses, but above the department's contracted rate plus medical expenses, will have eligibility determined as follows:

(i) Such applicants will be certified eligible for nursing home care. See WAC 388-83-140 for post-eligibility allocation of income.

(ii) Eligibility for nonnursing home medical care will require spending-down of all income remaining after allocating income, per (i) above. Coupons will be issued only when spend-down has been met.

(iii) Certification for nursing home care for such individuals shall be on a three-month basis. Spend-down of nonnursing home medical expenses will be on a three-month basis.

(f) Absence of not more than fourteen consecutive days from an institutional living arrangement would not interrupt an individual's institutional status.

(i) A transfer between institutions does not change institutional status.

(ii) A transfer from a hospital to a nursing home and discharge within the same calendar month is not continuous institutional status.

(2) Use other SSI financial criteria for consideration of resources as defined in chapters 388-92 and 388-83 WAC.

(3) Individuals who reside in a medical facility less than a full calendar month shall have their eligibility determined as for a noninstitutionalized person for that month. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-99-045, filed 12/3/81; 81-16-032 (Order 1684), § 388-99-045, filed 7/29/81.]

WAC 388-99-050 Limited casualty program--Medically needy--Application process. (1) Applications will be disposed of according to WAC 388-84-105 and 388-84-110.

(2) The effective date shall be as in chapter 388-84 WAC, except that the effective date for LCP-MN in own home shall be the date spenddown, if any, has been met. [Statutory Authority: RCW 74.08.090. 81-16-032 (Order 1684), § 388-99-050, filed 7/29/81.]

WAC 388-99-055 Certification. (1) Applicants in their own homes shall have a choice of a three-month or a six-month certification period. Once certified the applicant may not change the chosen certification period.

(2) An applicant in own home shall be certified for no more than six months.

(3) An applicant who is required to spenddown shall be certified from the day the spenddown requirement is met through the last day of the three-month or six-month period which began with the month of application.

(4) If retroactive coverage is requested at the time of application, a spenddown applicant shall be certified from the day the spenddown requirement was met through the last day of the three-month period which began up to three months prior to the month of application.

(5) An application is required for any subsequent period of eligibility for LCP-MN.

(6) Full-month coverage is not available during the first month of eligibility for persons who must establish eligibility by deducting incurred medical expense from countable income.

(7) A recipient in a medical facility, other than a hospital, shall be certified for twelve months.

(8) All medically needy applicants shall receive individual notification of the disposition of their application.

(9) Any change in circumstances shall be reported within twenty days to the local community service office.

(10) Any recipient, aged, blind or disabled who has been terminated from SSI/SSP shall have their eligibility for LCP-MN determined in accordance with chapter 388-85 WAC. [Statutory Authority: RCW 74.08.090. 83-01-058 (Order 1925), § 388-99-055, filed 12/15/82; 82-14-050 (Order 1841), § 388-99-055, filed 6/30/82; 82-01-001 (Order 1725), § 388-99-055, filed 12/3/81; 81-16-032 (Order 1684), § 388-99-055, filed 7/29/81.]

WAC 388-99-060 Scope of care for medically needy. (1) The medical coverage under the limited casualty-medically needy program will include inpatient hospital services; outpatient hospital and rural health clinic services; physician and clinic services; prescribed drugs; dentures; prosthetic devices; eyeglasses; skilled nursing facility services; intermediate care facility services; intermediate care facility services for the mentally retarded; home health services; laboratory and x-ray services; and medically necessary transportation.

(2) A medically needy recipient deductible not to exceed one-half the payment the department makes for the first day of inpatient hospital care shall apply to each hospital admission.

(3) A medically needy recipient copayment not to exceed three dollars shall apply to each emergency room visit.

(4) For other conditions and limitations under which these services may be provided, refer to appropriate service in chapter 388-86 WAC.

(5) A request for an exception to policy shall not be approved without review by the division of medical assistance. [Statutory Authority: RCW 74.08.090. 81-16-032 (Order 1684), § 388-99-060, filed 7/29/81.]

Chapter 388-100 WAC

LIMITED CASUALTY PROGRAM--MEDICALLY INDIGENT

WAC

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|-------------|--|
| 388-100-005 | Limited casualty program--Medically indigent. |
| 388-100-010 | Limited casualty program--Medically indigent--Eligibility determination. |
| 388-100-015 | Allocation of excess income and nonexempted resource. |
| 388-100-020 | Limited casualty program--Medically indigent--Application process. |
| 388-100-025 | Certification. |
| 388-100-030 | Deductible. |
| 388-100-035 | Scope of care for medically indigent. |

WAC 388-100-005 Limited casualty program--Medically indigent. (1) The department of social and health services provides a limited casualty program of medical care, administered through the division of medical assistance, designed to meet the health care needs of persons not receiving cash assistance or eligible for any other medical program.

(2) An individual potentially eligible for the medically indigent program is a person who:

(a) Has an acute and emergent condition which is defined as having a short and relatively severe course, not chronic; occurring unexpectedly and demanding immediate action, and

(b) Meets the financial eligibility as defined in this section. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-100-005, filed 12/3/81; 81-16-032 (Order 1684), § 388-100-005, filed 7/29/81.]

WAC 388-100-010 Limited casualty program--Medically indigent--Eligibility determination. (1) Citizenship is not a requirement of eligibility.

(2) Persons receiving LCP-MI shall meet the following eligibility standards:

(a) The individual is not receiving continuing cash assistance or eligible for any other medical program.

(b) Income shall not exceed the medically needy income level in WAC 388-99-020 or shall be spenddown to that level according to procedures in WAC 388-99-030.

(c) Nonexempt resources shall not exceed the resource standard for SSI or shall be spenddown to that level according to procedures in WAC 388-100-015.

(d) The applicant who has transferred resources within two years prior to the date of application but after July 1, 1981, shall spenddown the uncompensated value of the resource as described in WAC 388-100-010. See WAC 388-99-035(2) for determining the uncompensated value of the transferred resource.

(3) Use AFDC income guidelines in chapter 388-28 WAC to determine treatment of income. Except the AFDC earned income exemption of thirty dollars plus one-third of the remainder does not apply to individuals applying for LCP-MI.

(4) Use AFDC resource guidelines in chapter 388-28 WAC to determine exempt resources.

(5) Satisfy the deductible requirement in WAC 388-100-030. [Statutory Authority: RCW 74.08.090. 82-17-072 (Order 1868), § 388-100-010, filed 8/18/82; 82-01-001 (Order 1725), § 388-100-010, filed 12/3/81; 81-16-032 (Order 1684), § 388-100-010, filed 7/29/81.]

WAC 388-100-015 Allocation of excess income and nonexempted resource. (1) All excess income and nonexempted resources shall be allocated toward the cost of medical care.

(2) On initial or subsequent applications all previously incurred medical expenses are deducted from excess countable income as described in WAC 388-99-030. These expenses cannot have been used toward a previous spenddown or deductible requirement. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-100-015, filed 12/3/81; 81-16-032 (Order 1684), § 388-100-015, filed 7/29/81.]

WAC 388-100-020 Limited casualty program--Medically indigent--Application process. (1) Applications will be disposed of according to WAC 388-84-105 and 388-84-110.

(2) The effective date shall be the date spenddown, if any, has been met.

(3) Medical care received within seven working days prior to the date of application shall be provided when:

(a) The condition was acute and emergent, and

(b) The individual was otherwise eligible. [Statutory Authority: RCW 74.08.090. 81-16-032 (Order 1684), § 388-100-020, filed 7/29/81.]

WAC 388-100-025 Certification. (1) A recipient shall be certified eligible for the duration of treatment for the acute and emergent condition not to exceed three months.

(2) Pregnancy is considered an acute and emergent need. A recipient who has been medically determined to be pregnant shall be certified for separate three-month periods for the duration of the pregnancy plus six weeks for the post partum care, which includes routine care for the newborn. Beyond this period of time eligibility for the mother or the newborn shall be determined separately.

(3) An applicant shall be certified from the day the spenddown and deductible requirements are met through the last day of the three-month period which began with the month of application.

(4) All medically indigent applicants shall be individually notified in writing of the disposition of their application.

(5) Any change in circumstances shall be promptly reported to the local community services office.

(6) Certification may be up to seven working days prior to the date of receipt of a written request for assistance. The department may waive the seven-day rule if a person fails to apply for medical reasons or other good cause. [Statutory Authority: RCW 74.08.090. 82-17-072 (Order 1868), § 388-100-025, filed 8/18/82; 82-10-062 (Order 1801), § 388-100-025, filed 5/5/82; 81-16-032 (Order 1684), § 388-100-025, filed 7/29/81.]

WAC 388-100-030 Deductible. A deductible of fifteen hundred dollars per family over a twelve-month period is required.

(1) Only family members that meet the eligibility requirements in WAC 388-100-010(1) through (4) can accumulate expenses against the deductible.

(2) The accumulation of the deductible may begin up to seven working days prior to the date of application. The department may waive the seven-day rule if a person fails to apply for medical reasons or other good cause.

(3) Only medical services as specified in WAC 388-100-035 are countable toward meeting the deductible requirement.

(4) The expenses incurred against the deductible are the liability of the applicant/recipient.

(5) If the deductible has not been satisfied during the three-month base period beginning with the month of application, the remaining amount is applied to any subsequent applications within twelve months of the initial application. [Statutory Authority: RCW 74.08.090. 82-20-039 (Order 1880), § 388-100-030, filed 10/1/82; 82-13-079 (Order 1828), § 388-100-030, filed 6/21/82; 81-16-032 (Order 1684), § 388-100-030, filed 7/29/81.]

WAC 388-100-035 Scope of care for medically indigent. (1) The medical coverage under the limited casualty program—medically indigent shall be available to an eligible individual for treatment of acute and emergent conditions only. This may include: Inpatient hospital services; outpatient hospital and rural health clinic services; physician and clinic services; prescribed drugs; dentures; prosthetic devices; eyeglasses, SNF, ICF, ICF/MR; home health services; laboratory and x-ray services; and medically necessary transportation.

(2) Payment by the department will not be made until expenses are incurred by the recipient equal to the deductible amount.

(3) All services require the approval of the medical consultant.

(4) When any other medical need is identified for recipients undergoing treatment under the Involuntary Treatment Act (ITA) or detoxification for an acute alcohol condition as defined in chapter 388-40 WAC, the requirements for acute and emergent need and the deductible shall apply.

(5) When an applicant indicates that an urgent undefined medical illness exists, the condition will be regarded as acute and emergent and one office visit for diagnosis may be allowed, provided all financial eligibility criteria have been met. Treatment will be contingent upon the criteria for acute and emergent having also been met.

(6) For other conditions and limitations under which these services may be provided refer to appropriate service in chapter 388-86 WAC.

(7) No out-of-state care is provided except in the designated bordering cities. [Statutory Authority: RCW 74.08.090. 82-17-072 (Order 1868), § 388-100-035, filed 8/18/82; 82-04-071 (Order 1754), § 388-100-035, filed 2/3/82; 81-16-032 (Order 1684), § 388-100-035, filed 7/29/81.]

Chapter 388-320 WAC PUBLIC RECORDS--DISCLOSURE

WAC

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|-------------|--|
| 388-320-010 | Purpose. |
| 388-320-020 | Definitions. |
| 388-320-055 | Repealed. |
| 388-320-060 | Repealed. |
| 388-320-070 | Repealed. |
| 388-320-090 | Operations and procedure—Rules adoption and publication. |
| 388-320-092 | Statements of policy. |
| 388-320-093 | Repealed. |
| 388-320-094 | Repealed. |

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|-------------|---|
| 388-320-095 | Repealed. |
| 388-320-100 | Public records available. |
| 388-320-110 | Public records officer. |
| 388-320-115 | Public disclosure coordinator. |
| 388-320-120 | Repealed. |
| 388-320-130 | Request for public records. |
| 388-320-135 | Disclosure to client's representative. |
| 388-320-140 | Fees—Inspection and copying. |
| 388-320-150 | Repealed. |
| 388-320-155 | Repealed. |
| 388-320-160 | Repealed. |
| 388-320-170 | Protection of public records. |
| 388-320-180 | Records index. |
| 388-320-190 | Repealed. |
| 388-320-200 | Repealed. |
| 388-320-205 | Disclosure procedure. |
| 388-320-210 | Remedy for review of denial of disclosure. |
| 388-320-220 | Exemptions to public records disclosure. |
| 388-320-225 | Qualifications on nondisclosure. |
| 388-320-230 | Visitation rights of parents. |
| 388-320-235 | Disclosure for program purposes. |
| 388-320-240 | Disclosure for other than program purposes. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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|-------------|---|
| 388-320-055 | Operations and procedure—Program division responsibilities. [Order 899, § 388-320-055, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-060 | Operations and procedure—Program division operation. [Order 899, § 388-320-060, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-070 | Operations and procedure—Administrative divisions. [Order 899, § 388-320-070, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-093 | Statements of policy—Practice manuals. [Order 899, § 388-320-093, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-094 | Statements of policy—State plans. [Order 899, § 388-320-094, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-095 | Statements of policy—Other. [Order 899, § 388-320-095, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-120 | Office hours. [Order 899, § 388-320-120, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-150 | Exemptions. [Order 899, § 388-320-150, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-155 | Denial of request. [Order 899, § 388-320-155, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-160 | Review of denial. [Order 899, § 388-320-160, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-190 | Communications and submissions relating to public records. [Order 899, § 388-320-190, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-200 | Adoption of form. [Order 899, § 388-320-200, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), |

filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.

WAC 388-320-010 Purpose. The purpose of this chapter shall be to ensure compliance by the department of social and health services with the provisions of the Public Records Disclosure Act, RCW 42.17.250 through 42.17.340.

This chapter is organized as follows:

(1) WAC 388-320-030 through 388-320-092 provide information relative to the overall organizational structure of the department, as required by RCW 42.17.250.

(2) The remainder of the chapter, commencing with WAC 388-320-100, provides information relating to disclosure of public records, as required by RCW 42.17.260 through 42.17.340. These sections apply to all offices of the department. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-010, filed 2/19/81; Order 899, § 388-320-010, filed 1/25/74.]

WAC 388-320-020 Definitions. (1) "Public records" include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by the department regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

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

(4) "Client" means any person or organization about whom the department has a record.

(5) "Disclosure" means inspection and/or copying.

(6) "Denial of disclosure" denotes any exempting from disclosure of any public record. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-020, filed 2/19/81; Order 899, § 388-320-020, filed 1/25/74.]

WAC 388-320-055 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-320-060 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-320-070 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-320-090 Operations and procedure--Rules adoption and publication. Substantive and procedural rules of general applicability adopted by the department as authorized by law or adopted by the Washington state board of health and enforced by the department as authorized by law appear at the following WAC titles:

- (1) Title 248—Health
- (2) Title 275—Institutions, mental health, and mental retardation
- (3) Title 388—Economic and social services
- (4) Title 402—Radiation control agency
- (5) Title 490—Vocational rehabilitation. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-090, filed 2/19/81; Order 899, § 388-320-090, filed 1/25/74.]

WAC 388-320-092 Statements of policy. Statements of general policy or interpretations of general applicability, including procedural manuals maintained for department staff use, shall be available for public inspections. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-092, filed 2/19/81; Order 899, § 388-320-092, filed 1/25/74.]

WAC 388-320-093 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-320-094 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-320-095 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-320-100 Public records available. (1) All public records of the department are available for disclosure except as otherwise provided by these rules.

(2) Requests for any identifiable public record may be initiated at any office of the department, except that requests for research purposes shall be made directly to the human research review section.

(3) The department shall at all times take the most timely possible action on requests for disclosure; the department shall respond in writing within ten working days of receipt of the request for disclosure, and its failure to do so shall entitle the person seeking disclosure to petition the public records officer pursuant to WAC 388-320-210. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-100, filed 2/19/81; Order 899, § 388-320-100, filed 1/25/74.]

WAC 388-320-110 Public records officer. The department shall designate a public records officer, located in the state administrative office, who shall be responsible for implementing the department's rules regarding disclosure of public records, coordination of staff in this regard, and generally insuring compliance by the staff with public records disclosure requirements. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-110, filed 2/19/81; Order 899, § 388-320-110, filed 1/25/74.]

WAC 388-320-115 Public disclosure coordinator. Each departmental administrative unit—for example, each CSO or institution—shall designate from among its employees at least one public disclosure coordinator, who shall:

(1) Have responsibility to respond to written requests for disclosure of the department's nonexempt public records located in that office; and

(2) Refer the person requesting disclosure to any other office where the record is located, and assist further in the disclosure process; and

(3) Verify, if necessary, the identity of any person requesting information. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-115, filed 2/19/81; Order 899, § 388-320-115, filed 1/25/74.]

WAC 388-320-120 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-320-130 Request for public records. (1) A request for disclosure of a public record may be oral or written. Such a request need merely identify with reasonable certainty the record sought to be disclosed.

(2) A request for disclosure shall be made during customary business hours.

(3) A request for disclosure shall not be made for commercial or political purposes.

(4) If the public record contains material exempt from disclosure pursuant to law, including those laws cited in WAC 388-320-220, the department must provide the person requesting disclosure with a written explanation for the nondisclosure, pursuant to WAC 388-320-205.

(5) Any person continuing to seek disclosure, after having received a written explanation for nondisclosure pursuant to WAC 388-320-205, may request a review under the provisions of WAC 388-320-210.

(6) When a person's identity is relevant to an exemption, that person may be required to provide personal identification.

(7) Nothing in this section or elsewhere in this chapter shall be construed to require the department to compile statistics or other information from material contained in public records, where doing so would unduly interfere with other essential functions of the department and is not required for litigation by rules of pretrial discovery. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-130, filed 2/19/81; Order 899, § 388-320-130, filed 1/25/74.]

WAC 388-320-135 Disclosure to client's representative. (1) If a client requests disclosure to a representative, that request must be accompanied by a written release signed by the client, except that, as an accommodation to the client and if the legislator or attorney representing the client can provide assurance that the client has authorized disclosure, the client's record may be briefly discussed with that legislator or attorney so long as there is neither physical inspection nor copying of client records by that representative. A written release must include:

(a) The identity of the person(s) or organization(s) to whom disclosure is to be made;

(b) An identification of the record, or portion thereof, to be disclosed;

(c) A statement of when the authorization for disclosure expires.

(2) Disclosures of information to a representative shall be made to the same extent as to the client.

(3) The legal guardian of a client has any and all rights accorded to a client by this section. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-135, filed 2/19/81.]

WAC 388-320-140 Fees--Inspection and copying. (1) No fee shall be charged for the inspection of public records.

(2) The department shall collect the following fees to reimburse itself for actual costs incident to providing copies of public records:

(a) In the instance of manuals, and manual revisions to holders of manuals, the cost shall be that of printing and mailing;

(b) Cost of copying of blueprints and like materials involving an extraordinary expense shall be fully reimbursed to the department;

(c) Otherwise, the department shall charge a fee of ten cents per page, plus postage if any, provided that:

(i) The first ten pages shall be free;

(ii) Additionally, any materials to be entered by the department as an exhibit in a hearing or trial shall be free.

(iii) Additionally, where a hearing or trial is being contested, the public disclosure coordinator shall authorize additional free copying of materials demonstrated to be relevant, where the client is indigent.

(3) Nothing contained in this section shall preclude the department from agreeing to exchange or provide copies of manuals or other public records with other state or federal agencies, whenever doing so is in the best interest of the department.

(4) The secretary of the department or his designee is authorized to waive any of the foregoing copying costs. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-140, filed 2/19/81; Order 899, § 388-320-140, filed 1/25/74.]

WAC 388-320-150 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-320-155 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-320-160 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-320-170 Protection of public records. Public records shall be disclosed only in the presence of a public disclosure coordinator or his/her designee, who shall withdraw the records if the person requesting disclosure acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the department. This section shall not be construed to prevent the department from accommodating a client by use of the mails in the

disclosure process. [Statutory Authority: RCW 42.17-.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-170, filed 2/19/81; Order 899, § 388-320-170, filed 1/25/74.]

WAC 388-320-180 Records index. (1) The department finds that it would be unduly burdensome and would interfere with agency operations to maintain an index of records because of the complexity and diversity of its operations and the resulting volume of manuals, correspondence, reports, surveys, staff studies and other materials.

(2) The department will make available for public disclosure all indices which may at a future time be developed for agency use. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-180, filed 2/19/81; Order 899, § 388-320-180, filed 1/25/74.]

WAC 388-320-190 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-320-200 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-320-205 Disclosure procedure. (1) The public disclosure coordinator shall review file materials prior to disclosure.

(2) If the file does not contain materials exempt from disclosure, the public disclosure coordinator shall ensure full disclosure.

(3) If the file does contain materials exempt from disclosure, the public disclosure coordinator shall deny disclosure of those exempt portions of the file, and shall, at the time of the denial, in writing, clearly specify the reasons for the denial of disclosure, including a statement of the specific exemptions or reasons authorizing the withholding of the record and a brief explanation of how the exemption or reason applies. The remaining, nonexempt materials shall be fully disclosed. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-205, filed 2/19/81.]

WAC 388-320-210 Remedy for review of denial of disclosure. (1) If the person requesting disclosure disagrees with the decision of a public disclosure coordinator denying disclosure of a public record, this person may at any time petition the department's public records officer for review of the decision denying disclosure. The form used by the public disclosure coordinator to deny disclosure of a public record shall clearly indicate this right of review.

(2) The public records officer shall review decisions denying disclosure in the most prompt fashion possible, and such review shall be deemed completed at the end of the second business day following receipt by the department of the petition for review. This shall constitute final agency action for the purposes of judicial review, pursuant to RCW 42.17.320. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-210, filed 2/19/81.]

WAC 388-320-220 Exemptions to public records disclosure. Nondisclosable records are those exempted by law, including:

(1) Personal information in any files concerning a client to the extent required by RCW 42.17.310(1)(a) and/or 74.04.060, including departmental evaluations of information received from providers of services, is exempt from disclosure to the general public. However, disclosure may be made to the client or the client's representative, except as otherwise prohibited by these rules;

(2) Valuable formulae, designs, drawings and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss, as required by RCW 42.17.310(1)(h);

(3) Data (including information revealing the identity of persons who file complaints, except as the complainant may authorize) contained in intelligence, investigative, and other related files compiled by investigative, law enforcement or penology agencies, and state agencies vested with the responsibility to discipline members of any profession. This data is nondisclosable to the extent required by RCW 42.17.310(1)(d) and (e), 10.97-.080, chapter 446-20 WAC, and 28 C.F.R. 20, but disclosable to the extent required by 45 C.F.R. 205.10(a)(13)(i) and RCW 74.08.070;

(4) Vocational rehabilitation records to the extent required by 45 C.F.R. 1361.47 and WAC 490-500-550;

(5) Certain juvenile justice or juvenile care records to the extent required by chapter 13.50 RCW;

(6) Records of the state registrar of vital statistics to the extent required by RCW 70.58.095;

(7) Alcohol and drug abuse patient records to the extent required by 42 C.F.R. Chapter 1 Part II or other federal law or regulation;

(8) Office of support enforcement information regarding location of parents to the extent required by RCW 74.20.280;

(9) Adoption and voluntary termination of parent-child relationship records to the extent required by chapter 26.32 RCW, and financial information received from adoptive parents to the extent required by RCW 74.13.121;

(10) Mental illness and inebriacy records to the extent required by RCW 71.05.390;

(11) Personal information in files maintained for an employee of the department to the extent required by RCW 42.17.310(1)(b);

(12) Deliberative material, as opposed to facts upon which a decision is based, contained in preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended; except that a specific record shall be disclosable when publicly cited by the department in connection with any action to the extent required by RCW 42.17.310(1)(i);

(13) Records which are relevant to a controversy to which the department is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior

courts, including records involving attorney-client communications between the department and the office of the attorney general privileged under RCW 5.60.060(2);

(14) The central registry of reported cases of child abuse or abuse of developmentally disabled persons to the extent required by RCW 26.44.070;

(15) Records of patients and inmates of state institutions to the extent required by RCW 72.01.290;

(16) Records concerning applicants or recipients of support enforcement activities, as required by 45 C.F.R. 302.18;

(17) Nursing home records, to the extent required by RCW 18.51.190 and 70.124.010;

(18) Competitive contract procurement instruments, such as a request for proposals or an invitation for bids, prior to their release to potential bidders; proposals and bids received in response to competitive contract procurement instruments until either the public opening of bids or, for proposals, the contractor and the department have signed the contract, pursuant to RCW 43.20A.050. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-220, filed 2/19/81.]

WAC 388-320-225 Qualifications on nondisclosure.

(1) To the extent that nondisclosable information can be deleted from the specific records sought, the remainder of the records shall be disclosable.

(2) No exemptions shall be construed to require nondisclosure of statistical information not descriptive of identifiable persons, as required by RCW 42.17.310(2).

(3) Inspection and copying of any specific records otherwise nondisclosable is permissible pursuant to an order of the superior court enforcing a subpoena in accordance with the provisions of RCW 42.17.310(3), or an order of the office of hearings enforcing a subpoena.

(4) Upon written request of a person who has been properly identified as an officer of the law with a felony arrest warrant or a properly identified United States immigration official with a warrant for an illegal alien the department shall disclose to such officer or official the current address and location of the person described in the warrant, as required by RCW 74.04.062.

(5) Any person may inquire of the department whether a named individual is a recipient of welfare assistance in accordance with RCW 74.04.060.

(6) Any records of the department may be made accessible for research purposes provided that the research complies with the guidelines published by the department in response to 45 C.F.R. 46 or other applicable state and federal law. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-225, filed 2/19/81.]

WAC 388-320-230 Visitation rights of parents.

(1) Upon written request of a parent who has been awarded visitation rights or legal custody, the public disclosure coordinator shall disclose to such parent the current address of his or her natural or adoptive child(ren) if they

are currently receiving financial aid from the department as shown by the warrant roll, or receiving nonassistance support enforcement services. Information supplied to a parent by the department shall be used only for purposes directly related to the visitation or custody provisions of the court order. No parent shall disclose such information to any other person except for the purpose of enforcing visitation or custody provisions of the court order.

(2) A request for an address shall be accompanied by a copy of the appropriate court order awarding visitation or custody, and the requesting parent shall state in his or her written request that the accompanying order has not been subsequently modified or amended.

(3) Information shall be released only upon satisfactory evidence of the identity of the party, but this provision is waived where the request is made by an attorney at law representing the parent. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-230, filed 2/19/81.]

WAC 388-320-235 Disclosure for program purposes.

(1) For purposes directly connected with the administration of department programs, information shall be disclosed between different offices of the department, unless prohibited by 45 C.F.R. 205.50 or other law.

(2) For purposes directly connected with the administration of department programs, information may be disclosed by the department to outside agencies, unless disclosure is prohibited by law.

(3) Outside agencies receiving information pursuant to (2) of this section shall be thereby subject to the same standards of disclosure as are required of the department. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-235, filed 2/19/81.]

WAC 388-320-240 Disclosure for other than program purposes.

To the extent not otherwise prohibited or authorized by law, inquiries from agencies outside the department will be honored only if written and only if the client's authorization is included with the request. [Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-240, filed 2/19/81.]

Title 390 WAC

PUBLIC DISCLOSURE COMMISSION

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