

Unsuccessful Termination (Work/Training Release) - Escaped, violation of program rules, or law violation led to termination from program.

Verified Education Program - Education program may include college, vocational, apprenticeship programs, etc. Verification of an education program by parole officer must include acceptance by the program, an admission date, and a source of funding while in the program.

Verified Employment - Employment upon release as verified by investigating parole officer.

Weapons in Offense - Use of firearm, knife, or other instrument. Includes an implied weapon and possession of a weapon.

Title 388 WAC

SOCIAL AND HEALTH SERVICES,
DEPARTMENT OF (PUBLIC ASSISTANCE)

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Chapter 388-08 WAC

PRACTICE AND PROCEDURE—FAIR HEARING

WAC

388-08-00101	Repealed.
388-08-002	Repealed.
388-08-00201	Scope of chapter 388-08 WAC.
388-08-00401	Authority to adjudicate.
388-08-006	Administrative hearing—Form of request.
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388-08-010	Administrative hearing—Who may appear as a representative.
388-08-050	Repealed.
388-08-055	Repealed.
388-08-080	Repealed.
388-08-083	Repealed.
388-08-150	Repealed.
388-08-160	Repealed.
388-08-170	Repealed.
388-08-180	Repealed.
388-08-190	Repealed.
388-08-200	Repealed.
388-08-210	Repealed.
388-08-220	Repealed.
388-08-230	Repealed.
388-08-235	Repealed.
388-08-375	Repealed.
388-08-390	Repealed.
388-08-400	Repealed.
388-08-405	Withdrawal—Dismissal—Settlement.
388-08-406	Decision—rendering procedure—Proposal for decision.
388-08-407	Repealed.
388-08-408	Repealed.
388-08-409	Petition for review by review judge.
388-08-413	Procedure on review by review judge.
388-08-414	Repealed.
388-08-416	Selected final decisions as precedent.
388-08-420	Repealed.
388-08-430	Repealed.
388-08-440	Repealed.
388-08-450	Repealed.
388-08-470	Repealed.
388-08-480	Repealed.
388-08-490	Repealed.
388-08-500	Repealed.
388-08-503	Repealed.
388-08-510	Repealed.
388-08-520	Repealed.
388-08-600	Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-08-00101	Fair hearing—Definitions. [Order 768, § 388-08-00101, filed 1/10/73.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
388-08-002	Fair hearing—Statutory basis. [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.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
388-08-050	Fair hearing—Appearance by former employee of department. [Order 768, § 388-08-050, filed 1/10/73; Order 524, § 388-08-050, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-050, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
388-08-055	Fair hearing—Attendance at hearing—Reporting. [Order 768, § 388-08-055, filed 1/10/73; Order 524, § 388-08-055, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-055, filed 4/1/68.] Repealed by 84-

05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.

388-08-080	Notice and opportunity for hearing. [Statutory Authority: RCW 34.04.020. 80-06-090 (Order 1505), § 388-08-080, filed 5/28/80; Order 768, § 388-08-080, filed 1/10/73; Order 524, § 388-08-080, filed 3/31/71, effective 5/1/71; Order 374, § 388-08-080, filed 8/7/69; Order 284, § 388-08-080, filed 4/1/68; Regulation 23.34, filed 6/16/67; Regulation 23.34, filed 10/13/66; effective 11/13/66; Regulation 23.53, filed 1/24/64.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
388-08-083	Notice and opportunity for hearing—Computation of time. [Order 768, § 388-08-083, filed 1/10/73; Order 524, § 388-08-083, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-083, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
388-08-150	Subpoenas—Where provided by law—Form. [Order 768, § 388-08-150, filed 1/10/73; Order 524, § 388-08-150, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-150, filed 4/1/68; Regulation 23.35, filed 10/13/66, effective 11/13/66.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
388-08-160	Subpoenas—Issuance to parties—Issuance by department. [Order 524, § 388-08-160, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-160, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
388-08-170	Subpoenas—Service. [Order 524, § 388-08-170, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-170, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
388-08-180	Subpoenas—Fees. [Order 768, § 388-08-180, filed 1/10/73; Order 524, § 388-08-180, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-180, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
388-08-190	Subpoenas—Proof of service. [Order 524, § 388-08-190, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-190, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
388-08-200	Subpoenas—Quashing. [Order 524, § 388-08-200, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-200, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
388-08-210	Subpoenas—Enforcement. [Order 524, § 388-08-210, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-210, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
388-08-220	Subpoenas—Geographical scope. [Order 524, § 388-08-220, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-220, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
388-08-230	Depositions and interrogatories. [Order 768, § 388-08-230, filed 1/10/73; Order 524, § 388-08-230, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-230, filed 4/1/68; Regulation 23.36, filed 10/13/66, effective 11/13/66.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
388-08-235	Questionnaires—Petitioner or witness out of state. [Order 524, § 388-08-235, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-235, filed 4/1/68; Regulation 23.44, filed 10/13/66, effective 11/13/66.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
388-08-375	Official notice—Matters of law—Material facts. [Order 768, § 388-08-375, filed 1/10/73; Order 524, § 388-08-375, filed 3/31/71, effective 5/1/71; Order

- 284, § 388-08-375, filed 4/1/68; Regulation 23.42, filed 10/13/66, effective 11/13/66.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-390 Presumptions. [Order 768, § 388-08-390, filed 1/10/73; Order 524, § 388-08-390, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-390, filed 4/1/68; Regulation 23.43, filed 10/13/66, effective 11/13/66.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-400 Stipulations and admissions of record. [Order 768, § 388-08-400, filed 1/10/73; Order 524, § 388-08-400, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-400, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-407 Time limit for rendering decision. [Statutory Authority: RCW 34.04.020. 79-09-054 (Order 1426), § 388-08-407, filed 8/24/79.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-408 Initial decision. [Statutory Authority: RCW 34.04.020. 79-09-054 (Order 1426), § 388-08-408, filed 8/24/79.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-414 Form, content, and effective date of decision. [Statutory Authority: RCW 34.04.020. 79-09-054 (Order 1426), § 388-08-414, filed 8/24/79.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-420 Definition of issues before hearing. [Order 524, § 388-08-420, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-420, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-430 Prehearing conference rule—Authorized. [Order 524, § 388-08-430, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-430, filed 4/1/68; Regulation 23.40, filed 10/13/66, effective 11/13/66.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-440 Prehearing conference rule—Record of conference action. [Order 524, § 388-08-440, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-440, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-450 Submission of documentary evidence in advance. [Order 524, § 388-08-450, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-450, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-470 Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses. [Order 524, § 388-08-470, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-470, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-480 Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements. [Order 524, § 388-08-480, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-480, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-490 Expert or opinion testimony and testimony based on economic and statistical data—Supporting data. [Order 524, § 388-08-490, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-490, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-500 Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance. [Order 524, § 388-08-500, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-500, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-503 Expert opinion or written testimony—Medical assessment. [Order 768, § 388-08-503, filed 1/10/73; Order 524, § 388-08-503, filed 3/31/71, effective 5/1/71; Order 317, § 388-08-503, filed 11/27/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-510 Continuances. [Order 768, § 388-08-510, filed 1/10/73; Order 524, § 388-08-510, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-510, filed 4/1/68; Regulation 23.37, filed 10/13/66, effective 11/13/66.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-520 Rules of evidence—Admissibility criteria. [Order 768, § 388-08-520, filed 1/10/73; Order 524, § 388-08-520, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-520, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-600 Judicial review. [Order 768, § 388-08-600, filed 1/10/73; Order 524, § 388-08-600, filed 3/31/71, effective 5/1/71; Order 317, § 388-08-600, filed 11/27/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.

WAC 388-08-00101 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-002 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-00201 Scope of chapter 388-08 WAC. Chapter 10-08 WAC governs the aspects of administrative practice and procedure in contested cases from issuance of the notice of hearing through issuance of a proposal for decision, initial decision, or final decision if no proposal for or initial decision is required or issued. Chapter 388-08 WAC governs all other aspects of administrative practice and procedure within the department of social and health services unless otherwise provided by department rule. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-08-00201, filed 2/17/84.]

WAC 388-08-00401 Authority to adjudicate. (1)(a) In cases in which the department has sixty days or less from the date of receipt of the request for hearing to issue a final administrative decision, the administrative law judge shall prepare a proposal for decision or order which shall be submitted to the review judge for review and issuance of a final administrative decision or order.

(b) In cases in which the department has more than sixty days from the date of receipt of the request for hearing to issue a final administrative decision, the administrative law judge shall prepare and issue an initial decision.

(2) The administrative law judge and the review judge shall, in adjudicating contested cases, apply as the first source of law governing the issue or issues of the hearing rules of the department as adopted in the Washington Administrative Code and any precedential decision or decisions applicable to the issue or issues.

(3) If there is no department rule or rules or precedential decision or decisions governing the issue or issues raised, the administrative law judge and review judge shall resolve the issue or issues 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 court decisions. The administrative law judge and review judge 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 administrative law judge and review judge 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 assistance, benefit, scope of program, or fee or regulation adjustments for classes of people the department serves or regulates, the administrative law judge and review judge shall 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. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-08-00401, filed 2/17/84; 81-12-015 (Order 1657), § 388-08-00401, filed 5/29/81, effective 7/1/81.]

WAC 388-08-006 Administrative hearing--Form of request. Any person or authorized representative may make an oral or written request for a hearing. The request need not be in any particular form but should specify the decision with which the appellant is dissatisfied and the date he or she was notified by the department of the decision the appellant is appealing. The request, if oral, should be confirmed in writing within fifteen days and signed by the appellant, or his or her representative. An oral request must be made to a responsible department employee. A written request for a hearing should be mailed to Office of Hearings, P.O. Box 2465, Olympia, Washington 98504. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-08-006, filed 2/17/84; Order 768, § 388-08-006, filed 1/10/73; Order 524, § 388-08-006, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-006, filed 4/1/68; Regulation 23.31, filed 10/13/66, effective 11/13/66; Regulation 23.40, filed 1/24/64.]

WAC 388-08-00601 Administrative hearing--Group hearing. (1) When more than one appellant requests a hearing to appeal a similar issue or issues, the appeals may be consolidated by the department and heard as a group.

(2) An appellant scheduled for a group hearing may withdraw from a group hearing in favor of an individual hearing. A motion to withdraw filed by an appellant before the administrative law judge has made a discretionary ruling and before the date of hearing shall be granted, motions to withdraw filed later shall be granted by the administrative law judge if the group hearing caused the appellant expense, embarrassment or unreasonably delayed decision rendering.

(3) In a group hearing, each individual retains his or her right to representation of his or her choice. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-08-00601, filed 2/17/84; Order 768, § 388-08-00601, filed 1/10/73.]

WAC 388-08-010 Administrative hearing--Who may appear as a representative. The appellant may represent himself or herself, or the appellant may be represented by legal counsel or by a relative, friend, or other person. The appellant may not be represented at an administrative hearing by an employee of the department. Nothing in this regulation shall be construed as prohibiting an employee of the department from acting as a witness on behalf of an appellant, or from referring an appellant to legal resources in the community, assisting the appellant in obtaining nonconfidential information available to the appellant, or from advising the appellant as to possible arguments which can be made against the decision being appealed. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-08-010, filed 2/17/84; Order 952, § 388-08-010, filed 7/16/74; Order 768, § 388-08-010, filed 1/10/73; Order 524, § 388-08-010, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-010, filed 4/1/68; Regulation 23.32, filed 6/16/67; Regulation 23.32, filed 10/13/66, effective 11/13/66; Regulation 23.63, filed 1/24/64.]

WAC 388-08-050 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-055 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-080 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-083 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-150 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-160 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-170 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-180 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-190 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-200 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-210 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-220 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-230 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-235 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-375 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-390 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-400 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-405 Withdrawal--Dismissal--Settlement. (1) An administrative law judge or review judge shall dismiss a request for a hearing when:

- (a) The appellant has withdrawn the appeal, or
- (b) The appellant has abandoned the appeal.
- (c) The sole issue is one of state or federal law requiring automatic assistance, benefit, scope of program, or fee adjustments for classes of people the department serves or regulates. The administrative law judge or review judge shall dismiss such appeals without permitting argument to be made on the record regarding the validity of any section of the Washington Administrative Code.

(2) Each party has the right to petition to reinstate an appeal that has been dismissed. The petition must show good cause to reinstate the appeal. If, in the reasoned opinion of the administrative law judge or review judge, good cause to grant the relief is shown, then he or she shall reinstate the appeal.

(3) An appeal may be concluded by a written settlement signed by the appellant (or his or her representative) and signed by the authorized department representative and approved by an administrative law judge or review judge. [Statutory Authority: RCW 34.04.020, 84-05-040 (Order 2076), § 388-08-405, filed 2/17/84. 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 388-08-406 Decision-rendering procedure--Proposal for decision. (1) In ten days or less from the mailing of the proposal for decision, an interested party may file written exceptions and argument against the proposal for decision with the secretary or his or her designee. The exceptions and argument must set forth in detail the basis for the requested review and be mailed postage prepaid to the office of hearings and to the other party and that party's representative at their last known addresses.

(a) The ten-day period to file exception and argument may be extended by the secretary or designee upon motion of a party when the motion is filed during the ten-day period and good cause for the extension is shown.

(b) The ten-day time limit for filing exception and argument to a proposal for decision may be waived by

the secretary or designee where the petitioner demonstrates good cause for failure to timely file. Good cause includes mistake, inadvertence, and excusable neglect on the part of petitioner or unavoidable casualty or misfortune preventing the petitioner from timely filing. Upon a showing of good cause, either party may file exception and argument within thirty days of the date the final decision was mailed to the parties.

(2) Exceptions and argument shall be based on any one or more of the following grounds materially affecting the substantial rights of the party:

- (a) Irregularity in the proceedings by which the petitioning party was prevented from having a fair hearing. This includes misconduct by the prevailing party and misconduct or abuse of discretion by the administrative law judge, and/or
- (b) A finding or findings of fact are unsupported by substantial evidence in view of the entire record, and/or
- (c) An error or errors of law, and/or
- (d) Need for clarification in order for the parties to implement the decision.

(3) The other party may respond in writing to the exceptions and argument. The response must be mailed within seven days of the date the exceptions and argument were mailed to the other party. The seven-day response period may be extended by the secretary or designee on his or her own motion or the motion of a party. The response shall be mailed postage prepaid to the office of hearings and to the petitioner or, if represented, to the representative at his or her last known address.

(4) The secretary or designee may permit additional oral or written argument upon the motion of a party or the reviewing officer's own motion.

(5) The secretary or designee may accept additional evidence to correct omissions in the record upon his or her own motion or the motion of a party.

(6) The secretary or designee shall personally consider the whole record or such portions of the record as cited by a party or parties in the exception and argument.

(7) The secretary or designee may remand the proceedings to the administrative law judge for additional evidence or argument if:

(a) Neither party cited the law correctly applicable to the issue or issues defined at the hearing and additional evidence or argument is needed to reach a reasoned decision.

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

(c) The secretary or designee considers a remand necessary.

(8) The secretary or designee shall not substantially modify the proposal for decision unless, in the reasoned opinion of the reviewing officer:

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

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

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

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

(9) The secretary or designee may issue a proposed final decision.

(10)(a) The secretary's or designee's decision shall identify any substantial difference between it and the proposal for decision.

(b) The secretary's or designee's decision may incorporate all or part of the proposal for decision by reference.

(c) The secretary's or designee's final decision shall be effective on the date of filing. The reviewing officer shall file the original of the decision in the record of the proceedings and shall mail copies to the parties and their representatives. [Statutory Authority: RCW 34.04.020. 85-07-048 (Order 2217), § 388-08-406, filed 3/20/85; 84-05-040 (Order 2076), § 388-08-406, filed 2/17/84; 79-09-054 (Order 1426), § 388-08-406, filed 8/24/79.]

WAC 388-08-407 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-408 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-409 Petition for review by review judge. (1) In fourteen days or less from the mailing of the initial order or decision, either party may petition, in writing, for review of the initial order or decision with the review judge (designee of the secretary). The petition for review shall set forth in detail the basis for the requested review, and shall be mailed postage prepaid to the office of hearings and to the other party at his or her last known address.

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

(a) Irregularity in the proceedings by which the petitioning party was prevented from having a fair hearing. This includes misconduct by the prevailing party and misconduct or abuse of discretion by the administrative law judge.

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

(c) Errors of law,

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

(3) The other party may respond in writing to the petition for review. The response shall be mailed postage prepaid to the office of hearings and to the petitioner at his or her last known address. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-08-409, filed 2/17/84; 79-09-054 (Order 1426), § 388-08-409, filed 8/24/79.]

WAC 388-08-413 Procedure on review by review judge. (1) A petition for review shall be granted only if,

in the reasoned opinion of the review judge, one of the grounds for review set forth in WAC 388-08-409(2) is shown. Otherwise, the petition for review shall be denied and the initial order or decision shall be the final decision of the secretary as of the date of denial of the petition or petitions for review.

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

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

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

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

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

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

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

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

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

(5) The review judge may remand the proceedings to the administrative law judge for additional evidence or argument if:

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

(b) Irregularity in the proceedings occurred by which the party seeking review was prevented from having a

fair hearing and additional evidence or argument is necessary to cure the irregularity or

(c) The review judge considers a remand necessary and both parties assent to the remand.

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

(7) The review decision shall be final on the date of filing and shall be the final decision of the secretary. The review judge shall file the original of the decision in the record of the proceedings and shall mail copies to the parties and their representatives. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-08-413, filed 2/17/84; 79-09-054 (Order 1426), § 388-08-413, filed 8/24/79.]

WAC 388-08-414 Repealed. See Disposition Table at beginning of this chapter.

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 chief review judge may 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 chief review judge shall give preference to:

(a) Decisions usefully illustrating proper application of general legal principles or procedures adequately developed through administrative and/or judicial review;

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

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

(d) Decisions reflecting significant departure from prior final decisions or portions thereof;

(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)(a) The chief review judge shall make and maintain a list of people writing to him or her stating they desire to receive notice of and offer comments regarding decisions or portions of decisions the chief review judge selects for consideration as precedential.

(b) When the chief review judge selects a decision or portion for consideration as precedential, he or she shall mail notice thereof to the people who so requested.

(c) Interested parties shall have thirty days from the date of mailing the notice of selection for consideration as a precedential decision to provide the chief review judge with comments on the appropriateness of assigning the decision or portion with precedential value.

(d) The chief review judge shall consider all comments prior to final designation or rejection of a decision or portion of a decision as precedential.

(3) Decisions and portions of decisions adopted as precedential shall be maintained by the chief review

judge at the office of hearings in Olympia, Washington, and shall be public records.

(6) Nothing in this section limits the secretary's authority to adopt rules pursuant to the Administrative Procedure Act, specifically including rules modifying or overruling a holding in a precedential decision.

(7) Precedential decisions may be used by administrative law judges and review judges, appellants, and their representatives, and department representatives in connection with the hearings process. Precedential decisions are binding on administrative law judges in rendering a proposal for decision or order or an initial decision or order. Precedential decisions are binding on review judges when rendering a decision after a party has filed exception or argument or a petition for review unless clear and substantial argument is presented which, in the reasoned opinion of the review judge, demonstrates 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. 84-05-040 (Order 2076), § 388-08-416, filed 2/17/84; 81-12-015 (Order 1657), § 388-08-416, filed 5/29/81, effective 7/1/81.]

WAC 388-08-420 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-430 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-440 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-450 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-470 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-480 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-490 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-500 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-503 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-510 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-520 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-08-600 Repealed. See Disposition Table at beginning of this chapter.

Chapter 388-09 WAC

PRACTICE AND PROCEDURE--
ADMINISTRATIVE HEARING--CHILD WELFARE
AGENCY

WAC

- 388-09-010 Administrative hearing--Child welfare agency--Denial, suspension, revocation, or nonrenewal of license.
- 388-09-020 Administrative hearing--Applicability of chapter 388-08 WAC.
- 388-09-040 Time limit for rendering decision.

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

(2) Within thirty days from the receipt of notice of the grounds for denial, suspension, revocation, or lack of renewal, the licensee may serve upon the secretary a written request for hearing. Service of a request for hearing shall be made by certified mail. Upon receiving a request for hearing, the secretary shall fix a date upon which the matter may be heard, which date shall be not less than thirty-five days from the receipt of the request for hearing, and he or she shall also notify the child welfare and day care advisory committee not less than twenty-five days before the hearing date. If no request for hearing is made within the time specified, the license shall be deemed denied, suspended, or revoked. [Statutory Authority: RCW 34.04.020, 84-05-040 (Order 2076), § 388-09-010, filed 2/17/84; Order 525, § 388-09-010, filed 3/31/71, effective 5/1/71; Order 285, § 388-09-010, filed 4/1/68.]

WAC 388-09-020 Administrative hearing--Applicability of chapter 388-08 WAC. The rules in chapter 388-08 WAC which do not conflict with the provisions of chapter 388-09 WAC shall apply to a hearing requested under this chapter. [Statutory Authority: RCW 34.04.020, 84-05-040 (Order 2076), § 388-09-020, filed 2/17/84; Order 525, § 388-09-020, filed 3/31/71, effective 5/1/71; Order 285, § 388-09-020, filed 4/1/68.]

WAC 388-09-040 Time limit for rendering decision.

(1) The administrative judge shall take reasonable efforts to render the initial decision within thirty days of the record being completed, exclusive of continuances requested by or consented to by both parties.

(2) The review judge shall take reasonable efforts to render the review decision within thirty days of the record on review being completed, exclusive of continuances requested by or consented to by both parties. [Statutory Authority: RCW 34.04.020, 84-05-040 (Order 2076), § 388-09-040, filed 2/17/84.]

Chapter 388-11 WAC

CHILD SUPPORT--OBLIGATIONS

WAC

388-11-011 Definitions.

WAC 388-11-011 Definitions. For purposes of this chapter and chapters 388-13 and 388-14 WAC, the following definitions shall apply:

(1) "Locate" 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 subsection (1)(a) of this section, 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 as follows:

(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 subsection (1)(c) of this section are exhausted;

(e) Referral to the attorney general, a prosecuting attorney, or the Internal Revenue Service for specific legal or collection action.

(3) "The date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought" shall mean the date payment of an AFDC-R, AFDC-E, AFDC-FC, or state only foster care grant is authorized, or September 1, 1979, whichever is later.

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

(5) "Secretary" means the secretary of the department of social and health services or the secretary's designee or authorized representative.

(6) "Hearing examiner" shall mean the administrative law judge employed by the office of administrative hearings hearing the testimony and making the initial decision under chapter 388-11 WAC.

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

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

(9) "Administrative order" means any determination, finding, decree, or order for support issued pursuant to RCW 74.20A.055, or by an agency of another state pursuant to a substantially similar administrative process, establishing the existence of a support obligation and ordering the payment of a set or determinable amount of support moneys to satisfy the support obligation.

(10) "Support obligation" means the obligation to provide for the necessary care, support, and maintenance, including medical expenses, of a dependent child or other person as required by statutes and the common law of this or another state.

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

(12) "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.

(13) "Support moneys" means any moneys or in-kind providings 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.

(14) "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.

(15) "Support debt" means any delinquent amount of support moneys which is due, owing, and unpaid under a superior court order or an administrative order; a debt for the payment of expenses for the reasonable or necessary care, support and maintenance, including medical expenses, of a dependent child or other person for whom a support obligation is owed; or a debt under RCW 74.20A.100 or 74.20A.270. Support debt also includes any accrued interest, fees, or penalties charged on a support debt, and attorneys' fees and other costs of litigation awarded in an action to establish and enforce a support obligation or support debt.

(16) "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.

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

(18) "Good cause" means there is substantial reason or legal justification for delay, including a showing of those grounds enumerated in RCW 4.72.010 and Civil Rule 60 and allegation is made of a defense under WAC 388-11-065.

(19) "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.

(20) 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 or 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 or her right to rely upon it; and

(i) His or her subsequent damage.

(21) "State" means any state or political subdivision, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. [Statutory Authority: RCW 74.08.090. 85-23-019 (Order 2304), § 388-11-011, filed 11/13/85; 83-21-014 (Order 2036), § 388-11-011, filed 10/6/83; 81-05-021 (Order 1605), § 388-11-011, filed 2/11/81; 80-01-026 (Order 1465), § 388-11-011, filed 12/14/79.]

Chapter 388-14 WAC SUPPORT ENFORCEMENT

WAC

388-14-200	Eligibility—Assignment of support rights—Cooperation with office of support enforcement—Effect of noncooperation.
388-14-260	Distribution—Referrals from other states.
388-14-270	Distribution of support payments—Public assistance.
388-14-302	Nonassistance support enforcement—Persons eligible.
388-14-315	Repealed.
388-14-320	Nonassistance support enforcement—Distribution.
388-14-325	Nonassistance support enforcement—Termination of services.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-14-315	Nonassistance support enforcement—Fees—Limitations. [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.] Repealed by 84-15-057 (Order 2123), filed 7/18/84. Statutory Authority: RCW 74.08.090.
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WAC 388-14-200 Eligibility--Assignment of support rights--Cooperation with office of support enforcement--Effect of noncooperation. This section establishes the initial and continuing requirements which affect eligibility for aid to families with dependent children.

(1) Beginning August 1, 1975, as a condition of eligibility for assistance, each applicant/recipient shall make assignment to the office of support enforcement of any and all right, title, and interest in any support obligation the applicant/recipient may have in his or her own behalf or in behalf of any other family member for whom the applicant/recipient is applying for or receiving financial assistance including rights to support which have accrued at the time such assignment is executed.

(2) When subsection (1) of this section is satisfied, cooperation is further required as a continuing condition of eligibility for assistance unless the CSO determines the applicant/recipient has good cause not to cooperate under WAC 388-24-111. Cooperation includes identifying and locating absent parents including possible putative fathers, and in establishing paternity of a child or children, and/or in obtaining support payments or any other payments or property due the applicant/recipient or child or children as follows:

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

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

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

(b) Cooperation in establishing the paternity of a child or children including, but not limited to: Taking all reasonable action in cooperation with the office of support enforcement, the prosecuting attorneys, the attorney general, private attorneys compensated under RCW 74.20.350, courts or other agencies, in administrative hearings, or in actions to prosecute or maintain any legal action or remedy for the establishment of paternity or in investigations preparatory to or supplementary to such hearings or actions, and to develop medical and anthropological evidence relating to the alleged father's paternity based upon tests performed by experts on the mother and the child.

(c) When a custodial mother has informed the department that a particular man is the father of her child, the department shall make no further inquiry into her

personal life unless the man so identified has denied that he is the father of such child.

(d) Cooperation in establishing and collecting support and/or in obtaining support payments or any other payments or property due the applicant/recipient or child or children includes taking all reasonable action in cooperation with the office of support enforcement, the prosecuting attorneys, the attorney general, private attorneys compensated under RCW 74.20.350, courts or other agencies in administrative hearings or in actions to prosecute or maintain any legal action or remedy for the establishment or collection of support obligations or in investigations preparatory to or supplementary to such hearings or actions.

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

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

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

(iii) Execution of a repayment agreement and the repayment of retained support moneys in accordance with such an agreement.

(3) If the applicant/recipient fails to cooperate as defined in this section, the applicant/recipient shall be ineligible to receive assistance. Any assistance for which the children may be eligible shall be provided as specified in WAC 388-33-453. The determination of requirements for the child or children shall be computed without regard to the requirements of the applicant/recipient.

(4) If support moneys are not remitted within eight days of receipt by the applicant/recipient as required under WAC 388-14-200 (2)(e)(ii) and the applicant/recipient is currently receiving an AFDC grant, the office of support enforcement shall:

(a) Document the applicant/recipient has, in fact, received and retained support moneys and the amount of said money.

(b) Issue a notice of debt as provided in WAC 388-13-020 to the applicant/recipient to recover the payments, which notice includes the following information:

(i) An explanation of the applicant/recipient's responsibility to cooperate by turning over the support moneys as a condition of eligibility for AFDC, and the sanction for failure to cooperate;

(ii) A list of the support moneys retained, including the dates and amounts as well as copies of any documentary evidence (such as copies of checks, front and back), the office of support enforcement possesses;

(iii) A proposed repayment agreement which may include a provision for a voluntary grant deduction;

(iv) An explanation that repaying retained support moneys according to a repayment agreement is a condition of cooperation.

(v) A notice that the recipient may request an informal meeting with OSE, within twenty days of the date

of service of the notice of debt, to clarify the recipient's responsibilities for cooperation and to attempt to resolve any differences regarding the existence or amount of the claim for unremitted support moneys and/or the proposed repayment agreement.

(vi) A notice that the recipient has the right to request a hearing pursuant to WAC 388-13-060 to contest the department's claim of ownership of the support money identified in the notice and/or the reasonableness of the proposed repayment agreement.

(vii) A statement that the office of support enforcement will notify the CSO the recipient has failed to cooperate unless the recipient, within twenty days of the date of service of the notice of debt, executes the proposed repayment agreement, requests an informal meeting or requests an administrative hearing.

(5) The repayment agreement must be reasonably related to:

(a) The applicant/recipient's total income and resources including the AFDC grant; and

(b) The total amount of retained support moneys;

(c) The monthly amount of the repayment must not exceed ten percent of the grant payment standard during any month the applicant/recipient remains in public assistance status.

(6) If an applicant/recipient has retained support moneys but is no longer an active recipient of public assistance money, the office of support enforcement shall proceed pursuant to RCW 74.20A.270 and chapter 388-13 WAC, without reference to the procedural requirements of WAC 388-14-200(4).

(7) The office of support enforcement shall notify the CSO that the recipient has failed to cooperate if:

(a) The recipient fails to sign a repayment agreement for the amount of retained support moneys claimed by OSE in the notice of debt or as determined by an administrative law judge if a hearing is requested pursuant to WAC 388-13-060;

(b) The recipient enters into a repayment agreement but subsequently fails to make a payment under the terms of the agreement, or fails to comply with the decision of the administrative law judge.

(8) The office of support enforcement shall promptly notify the CSO when either of the following changes in circumstances occurs:

(a) The recipient failing to enter into a repayment agreement consents to do so and signs a repayment agreement;

(b) The recipient defaulting on an agreement or an administrative decision makes a regularly scheduled payment according to the agreement or decision.

(9) Nothing in these rules shall be construed to make an otherwise eligible child ineligible for public assistance because of the failure of applicant/recipient to cooperate as defined in this section. [Statutory Authority: RCW 74.20A.270, 85-20-085 (Order 2288), § 388-14-200, filed 10/1/85. Statutory Authority: RCW 74.08.090, 80-01-026 (Order 1465), § 388-14-200, filed 12/14/79; 78-09-053 (Order 1330), § 388-14-200, filed 8/22/78; Order 1054, § 388-14-200, filed 9/25/75.]

WAC 388-14-260 Distribution—Referrals from other states. (1) When a child support enforcement agency in another state, operating a child support program under Title IV-D of the Social Security Act, submits a request for support enforcement services under RCW 74.20.040(3), the office of support enforcement shall initiate appropriate action to establish, enforce, and collect the support obligation. The request shall be signed by an authorized official of the state agency and shall contain appropriate information and be accompanied by appropriate documentation to support the action to establish, enforce, and/or collect the support obligation. The following is a list of some of the information/documentation that may be submitted with the request for support enforcement services:

(a) The responsible parent's name, address, Social Security number, date of birth, present or last known employer, earnings or ability to earn, employment history, property and resources, and physical description;

(b) The custodian's name, address, and Social Security number;

(c) The names, address, Social Security numbers, and dates of birth of the dependent children;

(d) A certification that the request is being submitted under Title IV-D of the Social Security Act and identification of the case as a public assistance or nonassistance case;

(e) A copy of any superior court order or administrative order establishing the support obligation and any order modifying the court or administrative order;

(f) A copy of any official record of support payments made by the responsible parent or, if no such record exists, an affidavit setting forth the amount of support due under the superior court or administrative order, the period during which support was due and payable, and the amounts and dates of support payments;

(g) If there is no superior court or administrative order for support, an affidavit setting forth the following:

(i) A statement of facts establishing or tending to establish the existence of a legally enforceable support obligation;

(ii) A statement of the dates and amounts of any public assistance payments or a statement reflecting the needs of the children for food, clothing, shelter, medical support, or other necessities if no such assistance has been provided.

(2) If a superior court order has been entered establishing the responsible parent's support obligation, the office of support enforcement may proceed under RCW 74.20A.040 to enforce the support obligation and initiate further enforcement and collection action as authorized by law.

(3) If an administrative order has been entered by an agency in another state establishing the responsible parent's support obligation, the office of support enforcement may issue a notice of debt accrued and/or accruing created by the administrative order. Said notice shall be served upon the debtor in the manner prescribed for service of a summons in a civil action or be served on the debtor by certified mail, return receipt requested, demanding payment within twenty days of the date of

receipt. The notice of debt shall include a statement of the support debt accrued, computable on the amount required to be paid under the administrative order; a statement that the property is subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver; and a statement that the net proceeds will be applied to the satisfaction of the support debt. The notice shall also include a statement of the amount of the monthly payment for future/current support the responsible parent is required to make under the administrative order.

(a) Any debtor objecting to all or any part of the notice of debt shall have a right to request a contested hearing under chapter 34.04 RCW. The request shall be in writing and shall include a statement of the grounds and defenses upon which relief from the administrative order is sought and/or the basis for modification of the amount for future/current support.

The request shall be served upon the office of support enforcement by registered or certified mail or personally. If a hearing is requested, it shall be promptly scheduled in no more than thirty days from the date of receipt of the request. If a request for hearing is made within twenty days of the date of service of the notice, collection action shall be stayed pending the decision on such hearing. If no such request is made within this twenty-day period, the support debt and/or the amount of the future/current support payments shall become final subject to the provisions of WAC 388-14-260 (3)(e) and shall be subject to collection action.

(b) The scope of the hearing shall be limited to the grounds and defenses enumerated in superior court Civil Rule 60 which may entitle the debtor to relief from the administrative order and/or a determination whether or not the amount of the monthly payment for future/current support should be modified in accordance with the provisions of WAC 388-11-140. The burden of proof to establish such grounds and defenses and/or a material change in circumstances shall be on the debtor.

(c) If the debtor presents evidence which would constitute a full or partial defense and/or grounds for modification, upon request, the administrative law judge may continue the hearing to permit the parties to submit further evidence. Pending further hearing and the entry of an initial decision, the debtor may be ordered to pay or make reasonable payments on any undisputed portion of the support debt and to pay current support if owed.

(d) The provisions of the following sections of chapter 388-11 WAC are incorporated by reference and made applicable to the hearing process provided for in this section to the extent they are consistent with and relevant to the hearing process: WAC 388-11-015, 388-11-065, 388-11-070, 388-11-100, 388-11-105, 388-11-115, 388-11-120, 388-11-130, 388-11-135, 388-11-140, 388-11-145, 388-11-150, 388-11-155, 388-11-170, 388-11-180, 388-11-185, 388-11-190, and chapter 10-08 WAC.

(e) If a written request for hearing is served upon the office of support enforcement after the twenty-day period, the debtor's right to relief from the administrative order shall be determined pursuant to the provisions of

Civil Rule 60. A contested hearing under chapter 34.04 RCW shall be promptly scheduled in response to such a request. The filing of the petition for a hearing after the twenty-day period shall not affect any collection action previously taken under chapter 74.20A RCW. The granting of a request for hearing shall operate as a stay on any future collection action, pending the final decision of the secretary or the secretary's designee on the hearing. Moneys withheld as a result of collection action in effect at the time of the granting of the request for the hearing shall be delivered to the department and shall be held in trust by the department pending the final order of the secretary or during the pendency of any appeal to the courts made under chapter 34.04 RCW. The department may petition the administrative law judge to require the responsible parent to pay future/current support. If an order for future/current support is entered and the responsible parent fails to comply with the order, the office of support enforcement may take appropriate collection action.

(4) If there is no superior court order or administrative order, the office of support enforcement may issue a notice and finding of financial responsibility and proceed in accordance with the provisions of RCW 74.20A.055 which are incorporated by reference herein, to establish the support obligation, and initiate further enforcement and collection action as authorized by law.

(5) If the office of support enforcement is unable to establish, enforce, and/or collect the support obligation in response to the request or otherwise deems it appropriate under the circumstances, the case may be referred to the county prosecuting attorney or attorney general's office for collection action.

(6) A petition that has been or may be transmitted from another state for enforcement under the Uniform Reciprocal Enforcement of Support Act, chapter 26.21 RCW, may be deemed to be a request for support enforcement services sufficient to authorize the office of support enforcement to initiate action to establish, enforce, and collect the support obligation in accordance with this section.

(7) If the office of support enforcement is unable to locate the responsible parent after reasonable and diligent efforts, the requesting agency fails to provide sufficient information to locate the responsible parent and/or establish and enforce the support obligation, or the case does not appear to have collection potential for the foreseeable future, the office of support enforcement may discontinue support enforcement services and return the request and accompanying documentation to the requesting agency.

(8) If the office of support enforcement is notified by the requesting agency that the custodian of the dependent child or children is moving to another state, support enforcement services on behalf of the custodian may be continued for a period not to exceed five months.

(9) When the responsible parent is residing and/or employed in another state and support enforcement services are being provided under RCW 74.20.040 (1) or (2), the office of support enforcement may execute and

submit a request for support enforcement services similar to the request described in this section to the IV-D agency of that state, or may refer the case to the county prosecuting attorney or the attorney general's office for appropriate action.

(10) Upon request from another state, the office of support enforcement shall provide available information/documentation from case files, including but not limited to copies of superior court orders, administrative orders, pay records, and statements/affidavits of support debts, employment, and public assistance records. [Statutory Authority: RCW 74.08.090. 85-23-019 (Order 2304), § 388-14-260, filed 11/13/85; Order 1054, § 388-14-260, filed 9/25/75.]

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

(1) The following provisions apply to this section:

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

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

(c) The amounts collected as support during periods of time when aid is being provided, shall, for the purposes of this distribution section only, be treated first as payment on the required support obligation for the month in which support was collected.

(d) Amounts collected which are paid more frequently than once a month shall be converted to an amount which represents payment on the required support obligation for the current month. The office of support enforcement is directed to distribute payments periodically to give effect to efficient administration.

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

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

(g) No distribution may be made under subsection (2)(b) of this section unless a new assignment has been made pursuant to WAC 388-24-108 and 388-14-200.

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

(a) The first fifty dollars of any amount that is collected in a month which represents payment of the required support obligation for that month shall be paid to the family. This payment may not be used in determining the amount paid, if any, to the family in (c) of this subsection. If the amount collected includes payment of the required support obligation for a previous month or months, the family shall only receive the first fifty dollars of the amount which represents the required support obligation for the month in which support was collected. If amounts are collected for one family which represents support payments from two or more absent parents, only the first fifty dollars of the amount collected which represents the total required support obligation for the month in which the support was collected shall be paid to the family under this subsection. No payment shall be made to a family under this subsection for a month in which there is no child support collection. The requirements of this subsection shall be applicable commencing October 1, 1984.

(b) Any amount that is collected in a month which represents payment on the required support obligation for that month and is in excess of the amount paid to the family under (a) of this subsection shall be retained by the state to reimburse, in whole or in part, the assistance payment for the month in which the child support was collected or the next month. Of the amount retained by the state as reimbursement for that month's assistance payment, the office of support enforcement shall determine the federal government's share of the amount so retained so the IV-A agency may reimburse the federal government to the extent of its participation in the financing of the assistance payment. From the federal government's share, the office of support enforcement shall deduct and pay the incentive payments, if any, prescribed in WAC 388-14-370.

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

(d) If the amount collected is in excess of the amounts required to be distributed under (a), (b), and (c) of this subsection, any such excess shall be retained by the state as reimbursement for past assistance payments made to the family for which the state has not been reimbursed. The state may apply the amount retained to any sequence of months for which it has not yet been reimbursed. Of the amount retained by the state as reimbursement of past assistance payments, the office of

support enforcement shall determine the federal government's share of the amount so retained so the IV-A agency may reimburse the federal government to the extent of its participation in the financing of the assistance payments. From the federal government's share, the office of support enforcement shall deduct and pay the incentive payment, if any, prescribed in WAC 388-14-370. If past assistance payments are greater than the total support obligation owed, the maximum amount the state may retain as reimbursement for such assistance payments is the amount of such obligation, unless amounts are collected which represent the required support obligation for periods prior to the first month in which the family received assistance under the state's Title IV-A plan, in which case such amounts shall be retained by the state to reimburse the difference between such support obligation and such assistance payments.

(e) If the amount collected is in excess of the amounts required to be distributed under (a), (b), (c), and (d) of this subsection such excess shall be paid to the family. This payment shall be made in the month following the month in which the amount of the collection was used to redetermine eligibility for an assistance payment under the state's Title IV-A plan.

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

(4) Any amount paid under subsection (2)(a), (c), or (e) of this section shall be identified as not being an assistance payment.

(5) Whenever the office of support enforcement is making collections on delinquent support assigned to the department pursuant to WAC 388-24-108 and 388-14-200, the office of support enforcement may pay to the family pursuant to WAC 388-14-250 from said collections an amount equal to the monthly amount owed for current support as established by either the superior court order for support or the administrative order or final determination entered pursuant to chapter 388-11 WAC:

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

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

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

(d) The department has, upon making any such payment, an additional assignment by operation of law of

the unpaid current support obligation owed to the person for whom the payment is made for the month in which the payment is made. The office of support enforcement shall take action to collect this assigned unpaid obligation to reimburse the department and/or the federal government for the payment made. [Statutory Authority: RCW 74.08.090, 85-01-004 (Order 2174), § 388-14-270, filed 12/6/84; 80-01-026 (Order 1465), § 388-14-270, filed 12/14/79; Order 1054, § 388-14-270, filed 9/25/75.]

WAC 388-14-302 Nonassistance support enforcement—Persons eligible. (1) Any resident of the state of Washington who is a physical and legal custodian or guardian of a person who is a resident of the state of Washington and who is not a recipient of public assistance for whom a support obligation is owed and who is not receiving adequate support (as defined by WAC 388-14-100) from persons owing a duty to pay support may apply for nonassistance support enforcement services to establish or enforce or collect an obligation for support including accrued arrears: *Provided*, That the office of support enforcement may also act to establish paternity where it is a necessary part of establishing support obligations for nonassistance clients. When the person(s) owing the duty to pay support is deceased or is eligible for or receiving 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. If support enforcement services on behalf of a public assistance recipient have resulted in the collection of support payments, the office of support enforcement shall continue, if appropriate, to provide support enforcement services during this four-month period, and thereafter, if authorized to do so by the former recipient. All support moneys collected, during the four-month period, except those collected to satisfy arrears assigned to the department under sections 17 and 22, chapter 171, Laws of 1979 ex. sess. RCW 74.20.330, 42 U.S.C. 602 (a)(26)(A), RCW 74.20A.250 and/or 74.20A.030 shall be remitted to the children's custodian. [Statutory Authority: RCW 74.08.090, 85-01-004 (Order 2174), § 388-14-302, filed 12/6/84; 84-15-057 (Order 2123), § 388-14-302, filed 7/18/84; 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-14-320 Nonassistance support enforcement—Distribution. (1) Current support payments received on behalf of the applicant/custodian in the four-month period following the last month in which public assistance was paid shall be forwarded to the applicant/custodian.

(2) Support payments received on behalf of the applicant/custodian are forwarded as received.

(3) Nothing herein shall be construed to obligate the office of support enforcement to remit to the applicant/custodian moneys paid in satisfaction of a debt owed to the department under sections 17 and 22, chapter 171, Laws of 1979 ex. sess. RCW 74.20.330, 42 USC 602 (a)(26)(A), RCW 74.20A.250, or 74.20A.030 except as provided for in WAC 388-14-270(5). The total amount of any obligation that has accrued under the assignment made pursuant to WAC 388-24-108 and 388-14-200 prior to termination of assistance is collectible by the office of support enforcement subsequent to termination of assistance to reimburse the department for public assistance paid prior to termination. [Statutory Authority: RCW 74.08.090. 84-15-057 (Order 2123), § 388-14-320, filed 7/18/84; 80-01-026 (Order 1465), § 388-14-320, filed 12/14/79; Order 1054, § 388-14-320, filed 9/25/75.]

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

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

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

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

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

(b) In the event an applicant/custodian fails or refuses to provide supplementary information or fails or refuses to forward to the office of support enforcement support payments made direct, or fails or refuses to take necessary cooperative action as specifically requested by the office of support enforcement or who employs and/

or fails or refuses to discharge a private attorney, collection agency or other agency engaged in collection of the support debt assigned for collection to the department.

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

(4) Any support moneys received after a notice of decision by the office of support enforcement to discontinue support enforcement services has been mailed shall be returned to the payor with instructions to send all support moneys directly to the applicant/custodian or other forwarding agent, court, as appropriate. [Statutory Authority: RCW 74.08.090. 84-15-057 (Order 2123), § 388-14-325, filed 7/18/84; 80-01-026 (Order 1465), § 388-14-325, filed 12/14/79; Order 1054, § 388-14-325, filed 9/25/75.]

Chapter 388-15 WAC

SOCIAL SERVICES FOR FAMILIES, CHILDREN AND ADULTS

WAC

388-15-110	Information and referral services.
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388-15-208	Definitions.
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WAC 388-15-110 Information and referral services.

(1) Information and referral 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) Information and referral services may be offered to accomplish any of the five goals described in WAC 388-15-010. [Statutory Authority: RCW 74.08.090. 84-15-059 (Order 2125), § 388-15-110, filed 7/18/84; 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 388-15-120 Adult protective services. (1) Adult protective services are those services provided to

prevent, correct, improve, or remedy the situations of dependent adults eighteen years of age or older, vulnerable adults sixty years of age or older, or other adults similarly unable to protect interests vital to their safety and well-being. Requests for protection may come from the person at risk or others concerned for his or her welfare.

(2) To qualify for protective services, elements must exist of abuse, neglect, exploitation, or living conditions or life style constituting a danger to mental or physical health or safety of the client or others, and there must be no one willing and able to assist the adult responsibly.

(3) Definitions:

(a) "Abuse" means an act of physical or mental mistreatment or injury which harms or threatens a person through action or inaction by another individual.

(b) "Adult dependent person" means a person over the age of eighteen years who has been found legally incompetent pursuant to chapter 11.88 RCW or found disabled to such a degree pursuant to said chapter that such protection is indicated.

(c) "Exploitation" means the illegal or improper use of a vulnerable adult or that adult's resources for another person's profit or advantage.

(d) "Neglect" means a pattern of conduct resulting in deprivation of care necessary to maintain minimum physical and mental health.

(e) "Vulnerable adult" means a person sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself.

(4) Any social worker, employee of the department, or health care practitioner licensed under Title 18 RCW, including, but not limited to doctors, nurses, psychologists, and pharmacists, having reasonable cause to believe a vulnerable adult has suffered abuse, exploitation, neglect, or abandonment shall make an immediate oral report to the department followed by a written report to be mailed within five working days. Persons making oral reports must be advised of this written report requirement by the adult protective worker when the initial oral report is received. The department shall respond to all reports, from any source, of abuse, neglect, exploitation, and abandonment of dependent or vulnerable adults. Responsibility for the adult protective service investigation lies with the CSO service worker who shall determine if a valid adult protective situation exists.

(5) Adult protective service cases are normally of an emergency nature and remain adult protective cases only until the emergency situation is stabilized, usually ninety days or less.

(a) Any individual may receive adult protective services regardless of his or her recipient status or level of gross income.

(b) Support services including, but not limited to, chore may be provided without regard to income only when the services are essential to, and a subordinate part of, the adult protective services plan. Support services shall not be provided if the only basis of the inclusion in a care plan is prevention of future exploitation or danger.

(c) Authorization to extend adult protective services is required if, in the judgment of the service worker, it is essential to provide the service beyond ninety days. If supportive services are also necessary during the extended period, such services may be continued as long as the services are an integral part of the adult protective services plan.

(d) If continuation of support services such as chore is needed after adult protective services are terminated, these services may be continued if the client qualifies under the usual eligibility requirements for the service.

(6) Services may include but are not limited to the following:

(a) Provision of counseling to the client or other individuals, and taking necessary actions to alleviate the immediate problem.

(b) Assisting in locating and obtaining medical care and mental health services.

(c) Assisting in locating necessary legal services.

(d) Arranging for support services to resolve the problem without relocating the client so the client is able to remain in his or her present abode.

(e) Assisting with relocation, including help to locate suitable housing.

(f) Seeking help of law enforcement officials in situations of grave danger to the client.

(g) Acting as advocate for adults whose civil rights and financial entitlements are at risk.

(7) A person may receive protective services, provided the person requests or affirmatively consents to receive the services. If the person withdraws or refuses consent, services shall not be provided. The department may bring an action under chapter 11.88 RCW if the department determines a vulnerable adult lacks the ability or capacity to consent.

(8) The department may seek an injunction to prevent interference with an investigation concerning an allegation of abuse, neglect, exploitation, or abandonment of a vulnerable adult.

(9) Goals for adult protective services shall be limited to those specified in WAC 388-15-010 (1)(c), (d), and (e). Also see WAC 388-15-010(2). [Statutory Authority: RCW 74.08.090, 85-13-059 (Order 2239), § 388-15-120, filed 6/18/85; 84-17-071 (Order 2141), § 388-15-120, filed 8/15/84; 80-16-025 (Order 1562), § 388-15-120, filed 10/30/80. Statutory Authority: RCW 43.20A.550, 78-04-004 (Order 1276), § 388-15-120, filed 3/2/78; Order 1238, § 388-15-120, filed 8/31/77; Order 1088, § 388-15-120, filed 1/19/76.]

WAC 388-15-208 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/or

(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 a legal guardian should assume. Attendant care is authorized a daily or monthly rate payment in the individual provider program.

(5) "Hourly care" in the chore services program is the service provided to eligible persons needing 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 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 determining 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 provider 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.

(11) Persons are "at risk of institutionalization" or "at risk of residential placement" if the three following criteria are met:

(a) In greatest social and economic need as evidenced by more than one of the following:

- (i) Financially eligible for chore services;
- (ii) Seventy-five years of age or older;
- (iii) Homebound;
- (iv) Chronic physical health problems;
- (v) Chronic mental health problems;

(vi) Confused;

(vii) Socially isolated;

(viii) Living alone.

(b) Unable to perform one or more activities essential to daily living, and

(c) Informal support system will not meet all chore services needs. [Statutory Authority: RCW 74.08.090, 84-22-017 (Order 2165), § 388-15-208, filed 10/31/84; 83-14-029 (Order 1977), § 388-15-208, filed 6/30/83; 82-23-056 (Order 1904), § 388-15-208, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-208, filed 8/28/81; 81-11-044 (Order 1652), § 388-15-208, filed 5/20/81; 81-06-063 (Order 1618), § 388-15-208, filed 3/4/81.]

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.

(d) Department paid services are provided only to persons whose chore services needs cannot be met by relatives, friends, nonprofit organizations, or other persons.

(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. Minor children are not financially eligible in their own right. The minor 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:

(i) Of supplemental security income and/or state supplementation;

(ii) Of limited casualty program medical care as defined by RCW 74.09.010;

(iii) Who have gross family income, adjusted for family size, not in excess of thirty percent of the state median income.

(d) 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.

(e) An adult or family with a gross family income over thirty percent of the state median income (SMI), 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. (For attendant care, payment shall be reduced an equivalent to the hourly unit rate). See Table A, as follows:

Hours of chore service to be authorized based on income and level of service needed - 8/83

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

HOURS AUTHORIZED BY CRO	INCOME ELIGIBILITY LEVEL (PERCENT OF STATE MEDIAN INCOME)																																																
	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	75	80	85	90	95				
81	60	59	58	57	56	55	54	53	52	51	50	49	48	47	46	45	44	43	42	41	39	37	35	33	31	29	27	25	23	21	19	17	15	13	11	9	7	5	3	1	0								
82	61	60	59	58	57	56	55	54	53	52	51	50	49	48	47	46	45	44	43	42	40	38	36	34	32	30	28	26	24	22	20	18	16	14	12	10	8	6	4	2	0								
83	62	61	60	59	58	57	56	55	54	53	52	51	50	49	48	47	46	45	44	43	41	39	37	35	33	31	29	27	25	23	21	19	17	15	13	11	9	7	5	3	0								
84	63	62	61	60	59	58	57	56	55	54	53	52	51	50	49	48	47	46	45	44	42	40	38	36	34	32	30	28	26	24	22	20	18	16	14	12	10	8	6	4	0								
85	64	63	62	61	60	59	58	57	56	55	54	53	52	51	50	49	48	47	46	45	43	41	39	37	35	33	31	29	27	25	23	21	19	17	15	13	11	9	7	5	0								
86	65	64	63	62	61	60	59	58	57	56	55	54	53	52	51	50	49	48	47	46	44	42	40	38	36	34	32	30	28	26	24	22	20	18	16	14	12	10	8	6	0								
87	66	65	64	63	62	61	60	59	58	57	56	55	54	53	52	51	50	49	48	47	45	43	41	39	37	35	33	31	29	27	25	23	21	19	17	15	13	11	9	7	0								
88	67	66	65	64	63	62	61	60	59	58	57	56	55	54	53	52	51	50	49	48	46	44	42	40	38	36	34	32	30	28	26	24	22	20	18	16	14	12	10	8	0								
89	68	67	66	65	64	63	62	61	60	59	58	57	56	55	54	53	52	51	50	49	47	45	43	41	39	37	35	33	31	29	27	25	23	21	19	17	15	13	11	9	0								
90	69	68	67	66	65	64	63	62	61	60	59	58	57	56	55	54	53	52	51	50	48	46	44	42	40	38	36	34	32	30	28	26	24	22	20	18	16	14	12	10	0								
91	70	69	68	67	66	65	64	63	62	61	60	59	58	57	56	55	54	53	52	51	49	47	45	43	41	39	37	35	33	31	29	27	25	23	21	19	17	15	13	11	1	0							
92	71	70	69	68	67	66	65	64	63	62	61	60	59	58	57	56	55	54	53	52	50	48	46	44	42	40	38	36	34	32	30	28	26	24	22	20	18	16	14	12	2	0							
93	72	71	70	69	68	67	66	65	64	63	62	61	60	59	58	57	56	55	54	53	51	49	47	45	43	41	39	37	35	33	31	29	27	25	23	21	19	17	15	13	3	0							
94	73	72	71	70	69	68	67	66	65	64	63	62	61	60	59	58	57	56	55	54	52	50	48	46	44	42	40	38	36	34	32	30	28	26	24	22	20	18	16	14	4	0							
95	74	73	72	71	70	69	68	67	66	65	64	63	62	61	60	59	58	57	56	55	53	51	49	47	45	43	41	39	37	35	33	31	29	27	25	23	21	19	17	15	5	0							
96	75	74	73	72	71	70	69	68	67	66	65	64	63	62	61	60	59	58	57	56	54	52	50	48	46	44	42	40	38	36	34	32	30	28	26	24	22	20	18	16	6	0							
97	76	75	74	73	72	71	70	69	68	67	66	65	64	63	62	61	60	59	58	57	55	53	51	49	47	45	43	41	39	37	35	33	31	29	27	25	23	21	19	17	7	0							
98	77	76	75	74	73	72	71	70	69	68	67	66	65	64	63	62	61	60	59	58	56	54	52	50	48	46	44	42	40	38	36	34	32	30	28	26	24	22	20	18	8	0							
99	78	77	76	75	74	73	72	71	70	69	68	67	66	65	64	63	62	61	60	59	57	55	53	51	49	47	45	43	41	39	37	35	33	31	29	27	25	23	21	19	9	0							
100	79	78	77	76	75	74	73	72	71	70	69	68	67	66	65	64	63	62	61	60	58	56	54	52	50	48	46	44	42	40	38	36	34	32	30	28	26	24	22	20	10	0							
101	80	79	78	77	76	75	74	73	72	71	70	69	68	67	66	65	64	63	62	61	59	57	55	53	51	49	47	45	43	41	39	37	35	33	31	29	27	25	23	21	11	1	0						
102	81	80	79	78	77	76	75	74	73	72	71	70	69	68	67	66	65	64	63	62	60	58	56	54	52	50	48	46	44	42	40	38	36	34	32	30	28	26	24	22	12	2	0						
103	82	81	80	79	78	77	76	75	74	73	72	71	70	69	68	67	66	65	64	63	61	59	57	55	53	51	49	47	45	43	41	39	37	35	33	31	29	27	25	23	13	3	0						
104	83	82	81	80	79	78	77	76	75	74	73	72	71	70	69	68	67	66	65	64	62	60	58	56	54	52	50	48	46	44	42	40	38	36	34	32	30	28	26	24	14	4	0						
105	84	83	82	81	80	79	78	77	76	75	74	73	72	71	70	69	68	67	66	65	63	61	59	57	55	53	51	49	47	45	43	41	39	37	35	33	31	29	27	25	15	5	0						
106	85	84	83	82	81	80	79	78	77	76	75	74	73	72	71	70	69	68	67	66	64	62	60	58	56	54	52	50	48	46	44	42	40	38	36	34	32	30	28	26	16	6	0						
107	86	85	84	83	82	81	80	79	78	77	76	75	74	73	72	71	70	69	68	67	65	63	61	59	57	55	53	51	49	47	45	43	41	39	37	35	33	31	29	27	17	7	0						
108	87	86	85	84	83	82	81	80	79	78	77	76	75	74	73	72	71	70	69	68	66	64	62	60	58	56	54	52	50	48	46	44	42	40	38	36	34	32	30	28	18	8	0						
109	88	87	86	85	84	83	82	81	80	79	78	77	76	75	74	73	72	71	70	69	67	65	63	61	59	57	55	53	51	49	47	45	43	41	39	37	35	33	31	29	19	9	0						
110	89	88	87	86	85	84	83	82	81	80	79	78	77	76	75	74	73	72	71	70	68	66	64	62	60	58	56	54	52	50	48	46	44	42	40	38	36	34	32	30	20	10	0						
111	90	89	88	87	86	85	84	83	82	81	80	79	78	77	76	75	74	73	72	71	69	67	65	63	61	59	57	55	53	51	49	47	45	43	41	39	37	35	33	31	21	11	1	0					
112	91	90	89	88	87	86	85	84	83	82	81	80	79	78	77	76	75	74	73	72	70	68	66	64	62	60	58	56	54	52	50	48	46	44	42	40	38	36	34	32	22	12	2	0					
113	92	91	90	89	88	87	86	85	84	83	82	81	80	79	78	77	76	75	74	73	71	69	67	65	63	61	59	57	55	53	51	49	47	45	43	41	39	37	35	33	23	13	3	0					
114	93	92	91	90	89	88	87	86	85	84	83	82	81	80	79	78	77	76	75	74	72	70	68	66	64	62	60	58	56	54	52	50	48	46	44	42	40	38	36	34	24	14	4	0					
115	94	93	92	91	90	89	88	87	86	85	84	83	82	81	80	79	78	77	76	75	73	71	69	67	65	63	61	59	57	55	53	51	49	47	45	43	41	39	37	35	25	15	5	0					
116	95	94	93	92	91	90	89	88	87	86	85	84	83	82	81	80	79	78	77	76	74	72	70	68	66	64	62	60	58	56	54	52	50	48	46	44	42	40	38	36	26	16	6	0					
117	100	99	98	97	96	95	94	93	92	91	90	89	88	87	86	85	84	83																															

(f) Effort shall be made to obtain chore service from the volunteer chore service program, prior to approval of services by department paid providers, for individuals at risk of being placed in a residential care facility, but eligible for five hours per month or less of services.

(g) Individuals at risk of being placed in a residential care facility but not eligible for chore services because of income or need level, or eligible for a reduced level of service because of income, shall be referred to the volunteer chore service program where such program exists for needed hours or services not provided by the department.

(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.

(3) "Grandfathering" of recipients.

(a) Recipients of chore services as of August 22, 1983 shall be "grandfathered" if application of the 1983 act would result in reduction or termination of services.

(b) The 1983 act eligibility requirements apply to all other recipients whose services, at time of review, would remain the same or would be increased. See subsection (2)(d) of this section.

(c) When chore services for grandfathered recipients are terminated for longer than 30 days, the eligibility requirements of the 1983 act is applied. See subsection (2)(d) of this section.

(d) Continuing eligibility of the grandfathered chore service recipients whose services would otherwise be reduced or terminated by application of the 1983 act, will be determined by applying the eligibility requirements of the 1981 act as determined by the department. [Statutory Authority: RCW 74.08.090. 84-22-017 (Order 2165), § 388-15-209, filed 10/31/84; 83-21-007 (Order 2028), § 388-15-209, filed 10/6/83; 82-23-056 (Order 1904), § 388-15-209, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-209, filed 8/28/81; 81-06-063 (Order 1618), § 388-15-209, filed 3/4/81.]

WAC 388-15-212 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 = None: 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 = Minimal: 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 = Substantial: 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 = Total: 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) 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.

(d) 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.

(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 takes into consideration the ages, number, level of responsibility of the children, and the presence of a spouse when determining the need for chore services.

(i) Family housework determines the need for additional help cleaning the household because of the presence of children.

(ii) Family tasks determines the need for escort and transportation, laundry services, meal preparation and shopping, and bathing and dressing for the client's children.

(iii) Supervision of children determines the need for physical supervision of the children. When the client is in the home, but unable to supervise them.

(iv) The total scoring for the above are N = 0, M = 14, S = 27, and T = 40.

(r) Attendant care for adults/supervision of children.

(i) Attendant care for adults determines that 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 service provider performs any household or personal care tasks or gives assistance with activities of daily living during the authorized attendant care hours. The scoring and authorization are based on the number of days per month and hours per day during which the chore service provider must be with a client in need of attendant care. The client or applicant shall provide verification of the need for attendant care by producing a statement from the client's or applicant's physician.

(ii) Supervision of children 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 service 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.

(6) Except for cases where attendant care for adults or supervision of children when the client is temporarily absent are required, as defined in subsection (5)(r) 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
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 and above	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 for adults 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. 84-22-017 (Order 2165), § 388-15-212, filed 10/31/84; 83-21-007 (Order 2028), § 388-15-212, filed 10/6/83; 82-23-056 (Order 1904), § 388-15-212, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-212, filed 8/28/81; 81-11-044 (Order 1652), § 388-15-212, filed 5/20/81; 81-06-063 (Order 1618), § 388-15-212, filed 3/4/81; 79-01-042 (Order 1361), § 388-15-212, filed 12/21/78.]

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 for adults 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 three dollars and ninety-five cents per hour.

(b) A daily or monthly rate is paid for attendant care for adults and supervision of children. The daily or monthly rate is determined by the service worker after discussion with the client and chore service provider, but the rate shall not exceed the lesser of the following, a

maximum of five hundred forty dollars per month or the amount determined by the table as follows:

MONTHLY RATE DETERMINATION

HOURS OF SERVICE PER DAY	PAYMENT PER DAY	BASE MONTHLY RATE (30 DAYS PER MONTH)
16 - 24	up to \$18.00	up to \$540
12 - 15	up to \$16.00	up to \$480
8 - 11	up to \$13.00	up to \$390
4 - 7	up to \$ 8.40	up to \$252
2 - 3	up to \$ 5.40	up to \$162
1	up to \$ 3.40	up to \$102

Up to 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 daily or monthly rate set by the department. 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 fifty dollars, or the amount determined by the table in subsection (4)(b) of this section as follows:

HOURS OF SERVICE PER DAY	ADDITIONAL PAYMENT PER DAY	ADDITIONAL MONTHLY PAYMENT (30 DAYS PER MONTH)
16 - 24	up to \$7	up to \$210
12 - 15	up to \$5	up to \$150
8 - 11	up to \$4	up to \$120
4 - 7	up to \$3	up to \$ 90
2 - 3	up to \$2	up to \$ 60
1	up to \$1	up to \$ 30

(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 approval from the department to exceed the maximum monthly, daily, 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 or meals to the chore provider, the department may make a payment to partially reimburse the cost of this expense. Payment is not made for a spouse provider. 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, 84-22-017 (Order 2165), § 388-15-213, filed 10/31/84; 83-21-007 (Order 2028), § 388-15-213, filed 10/6/83; 82-23-056 (Order 1904), § 388-15-213, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-213, filed 8/28/81; 81-06-063 (Order 1618), § 388-15-213, filed 3/4/81; Order 1238, § 388-15-213, filed 8/31/77.]

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, licensed boarding home, congregate care facility, intermediate care facility, skilled nursing facility, hospital, or other institution, adult family home or child 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) Chore services may not be authorized an applicant/recipient who is eligible to receive community options program entry system funding or other duplicative services payment, provided the person's benefit would not be less under this stipulation.

(6) Department paid chore services are not provided hourly care clients when they are not in the home, for example, because of hospitalization. In an emergency, however, limited services may be provided to enable the client to return home.

(7) Department paid chore services are not provided attendant care clients when they are not in the home, for example, because of hospitalization. If necessary, however, up to seven days during the service month may be provided to enable the client to return home.

(8) All approvals for additional hours and higher payment rates are reevaluated periodically, 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.

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

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

(11) Chore services may only be authorized up to the amount allocated to the regions and division of developmental disabilities in accordance with RCW 74.08.541. Eligible clients or applicants can receive service if authorization is within the amount available. Clients or applicants are provided service based on their assessed need and level of income within the chore services expenditure lid. [Statutory Authority: RCW 74.08.090. 85-22-021 (Order 2298), § 388-15-215, filed 10/30/85; 84-22-017 (Order 2165), § 388-15-215, filed 10/31/84; 83-21-007 (Order 2028), § 388-15-215, filed 10/6/83; 82-23-056 (Order 1904), § 388-15-215, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-215, filed 8/28/81; 81-06-063 (Order 1618), § 388-15-215, filed 3/4/81; Order 1238, § 388-15-215, filed 8/31/77.]

WAC 388-15-610 COPES--Eligible persons. (1) Categorically related Medicaid recipients (i.e., aged, blind, and disabled persons) eighteen years of age and over are eligible for COPES services when they:

(a) Have gross monthly income which is less than three hundred percent of Supplemental Security Income (SSI) benefit level; and

(b) Have resources at or below the Medicaid standard; and

(c) Are assessed by the department as eligible for skilled nursing care, intermediate nursing care or intermediate nursing care for the mentally retarded; and

(d) Choose to live in their own homes or in congregate care facilities or in licensed adult family homes; and

(e) Have a plan of care for COPES services prepared by the department and the total cost for this plan of care, including the one-person medically needy income level, is less than ninety percent of the average statewide nursing home rate.

(2) Participation in COPES is the choice of the otherwise eligible recipient. [Statutory Authority: RCW 74.08.044. 84-12-038 (Order 2101), § 388-15-610, filed 5/30/84. Statutory Authority: RCW 74.08.090. 83-08-024 (Order 1954), § 388-15-610, filed 3/30/83.]

WAC 388-15-620 COPES--Services. (1) The following services may be authorized to COPES eligible recipients, based on department assessment of need and plan of care:

(a) Congregate care as defined in WAC 388-15-560 through 388-15-568. In addition, congregate care facilities may provide medication administration to COPES eligible clients when this service is required by the department and performed by a registered nurse under the

general direction of a licensed physician or dentist. (Refer to RCW 18.88.285 and WAC 308-120-100 through 308-120-522.)

(b) Adult family care as defined in WAC 388-15-551 through 388-15-555.

(c) Adult day health.

(d) Home health services as defined in WAC 388-86-045.

(e) Personal care services are services provided to a person residing in his or her established residence including meal preparation, dressing/undressing, care of appearance, body care, bed transfer, ambulation, wheelchair transfer, bathing, toileting, and reminding to take medicines. Other forms of household assistance such as house cleaning, telephoning, laundry, and writing are allowed when the recipient is unable to perform these tasks independently. Personal care also includes protective supervision when required due to the recipient's diminished mental capacity or judgment. Sterile procedures and administration of medications are not authorized personal care tasks, unless the provider is a licensed health practitioner or a member of the recipient's immediate family.

(f) Case management.

(2) Additional personal care services may not be authorized to recipients residing in congregate care facilities or adult family homes.

(3) Adult day health and home health services are provided only when the recipient requires congregate care, adult family home services, or personal care. The actual cost for adult day health and home health services must be included in the total plan of care costs.

(4) Applicants whose incomes exceed the cost for services are not eligible for COPES. [Statutory Authority: RCW 74.08.090. 85-18-067 (Order 2281), § 388-15-620, filed 9/4/85. Statutory Authority: RCW 74.08.044. 84-12-038 (Order 2101), § 388-15-620, filed 5/30/84. Statutory Authority: RCW 74.08.090. 83-08-024 (Order 1954), § 388-15-620, filed 3/30/83.]

WAC 388-15-630 COPES--Payment--Procedures.

(1) All nonexempt income of a person receiving COPES services shall be allocated according to procedures in WAC 388-83-200.

(2) The department shall pay to the providers of congregate care, home health services, adult day health care, and adult family home care a sum not to exceed the rates set forth in the most recent schedule of rates established and published by the department.

(3) The department shall pay for care of recipients living in the nonrelated provider's established residence at the adult family home rate when the provider's home is a licensed and contracted adult family home.

(4) The department shall pay for personal care services provided by a relative, except a spouse. Payment to a father, mother, son, or daughter shall be made only when:

(a) The relative will not provide the care unpaid, and

(b) The relative's income, including spousal income, is less than the medically needy income level (MNIL) adjusted for household size.

(5) The department shall pay for personal care of a recipient residing in his or her established residence at least the federal minimum hourly wage rate to individual and independent providers, but shall not pay more than three dollars and ninety-seven cents per hour. When the provider assists the recipient full time, a standby hourly wage shall be paid when the provider must be with the recipient but is not directly assisting the client. This standby wage shall not exceed twenty-five cents per hour.

(6) The department shall pay to private and public agencies providing personal care the same hourly unit rate reimbursement established by the department for chore services personal care.

(7) Payments for COPES services plus the recipient's income allocated for maintenance in the home shall not exceed ninety percent of the average state-wide monthly rate for nursing home care.

(8) Income allocated for maintenance needs in the home cannot exceed the medically needy income level. [Statutory Authority: RCW 74.08.090. 85-18-067 (Order 2281), § 388-15-630, filed 9/4/85. Statutory Authority: RCW 74.08.044. 84-12-038 (Order 2101), § 388-15-630, filed 5/30/84. Statutory Authority: RCW 74.08.090. 83-08-024 (Order 1954), § 388-15-630, filed 3/30/83.]

Chapter 388-18 WAC

LONG-TERM CARE OMBUDSMAN PROGRAM

WAC

388-18-010	Purpose.
388-18-020	Definitions.
388-18-030	Duties—State ombudsman.
388-18-040	Duties—Local ombudsman.
388-18-050	Duties—Certified volunteer ombudsmen.
388-18-060	Certification procedures for volunteer ombudsmen.
388-18-070	Access to residents, facilities, and records.
388-18-080	Reporting requirements.
388-18-090	Facility entry—Report and identification—Disclosure of purpose.
388-18-100	Privacy during ombudsman visits.
388-18-110	Confidentiality of information.
388-18-120	Referrals.
388-18-130	Posting requirements.

WAC 388-18-010 Purpose. The purpose of this chapter is to implement the long-term care ombudsman program as provided for in chapter 43.190 RCW, RCW 36.39.060, 74.38.040, and 74.38.050. [Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-010, filed 1/17/85.]

WAC 388-18-020 Definitions. When used in this chapter, unless otherwise required from the context:

(1) "Administrative action" means any action or decision made by an agent of a facility as defined in RCW 43.190.020 affecting the provisions of service to residents but does not include complaints of negligence or other tortious conduct of direct-care staff.

(2) "Legal representative" includes attorneys at law, attorneys in fact, trustees, and, in the case of the estate

of a decedent, personal representatives as defined by RCW 11.02.005(1).

(3) "Long-term care facility" is defined under RCW 43.190.020.

(4) "Ombudsman" means any long-term care ombudsman, including the director of the long-term care ombudsman project, ombudsmen employed by the state office, ombudsmen employed by local ombudsman programs authorized by RCW 36.39.060(2) or 74.38.040(9).

(5) "Resident" means any client, patient, or other resident of a facility.

(6) "State office" means the office of the state long-term care ombudsman.

(7) "Volunteer ombudsmen" means any volunteer ombudsman certified by the ombudsman program. [Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-020, filed 1/17/85.]

WAC 388-18-030 Duties—State ombudsman. (1) Investigate and resolve complaints on behalf of long-term care residents.

(2) Monitor laws, regulations, and policies affecting the residents of long-term care facilities.

(3) Provide the public with information and education programs about long-term care facilities.

(4) Promote the development of consumer organizations, i.e., resident councils, family councils, family support groups, citizen advocacy groups, etc.

(5) Identify major issues relating to long-term care.

(6) Assist in recruiting and training of volunteer ombudsmen.

(7) Coordinate the activities of long-term care ombudsmen throughout the state.

(8) Establish procedures for ombudsmen access to long-term care facilities.

(9) Establish a state-wide uniform complaint reporting system.

(10) Establish procedures to ensure confidentiality of complaint files and appropriate release of file content.

(11) Prepare an annual report by January 1st of each year.

(12) Carry out such activities as the secretary deems appropriate. [Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-030, filed 1/17/85.]

WAC 388-18-040 Duties—Local ombudsman. (1) Investigate and resolve complaints on behalf of long-term care residents.

(2) Monitor laws, regulations, and policies affecting the residents of long-term care facilities.

(3) Provide the public with information and education programs about long-term care facilities.

(4) Promote the development of consumer organizations, i.e., resident councils, family councils, family support groups, citizen advocacy groups, etc.

(5) Identify major issues relating to long-term care.

(6) Recruit and train volunteer ombudsmen.

(7) Submit monthly reports to the state ombudsman office.

(8) Carry out such activities as the state ombudsman deems appropriate. [Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-040, filed 1/17/85.]

WAC 388-18-050 Duties--Certified volunteer ombudsmen. (1) Act as an information liaison between the community and the ombudsman.

(2) May participate in resident councils.

(3) May participate in family councils.

(4) Make regular visits to long-term care facilities including:

(a) Meeting new residents;

(b) Visiting residents, per request of residents' family, staff, or others;

(c) Linking/referring long-term care residents and family members to appropriate long-term care services and assisting them to obtain needed information/help.

(5) Refer complaints requiring investigation or arbitration to appropriate ombudsman.

(6) Participate in training programs provided by state and local ombudsmen.

(7) Submit monthly activity reports to the volunteer coordinator. [Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-050, filed 1/17/85.]

WAC 388-18-060 Certification procedures for volunteer ombudsmen. (1) All prospective volunteer ombudsmen shall be screened by a local screening committee.

(2) Selected applicants shall receive thirty hours of training provided by the state ombudsman office.

(3) Upon successful completion, the ombudsman office shall issue a certificate of completion and a picture identification card.

(a) Local ombudsman programs certifying their own volunteers shall issue their own certificate which will be signed by the local ombudsman office director.

(b) State-certified volunteer ombudsmen shall receive a certificate and picture identification card from DSHS. The identification card shall be signed by the division director. [Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-060, filed 1/17/85.]

WAC 388-18-070 Access to residents, facilities, and records. (1) All ombudsmen and volunteer ombudsmen shall have appropriate access to residents and facilities.

(2) The following times are necessary and reasonable for ombudsman access to residents, facilities, and records:

(a) Any time during a facility's regular business day, regular visiting hours, or other period the facility is open to the public.

(b) Any other time access may be required by the particular condition to be investigated or monitored.

(3) Prior to seeking access to a facility, resident, or record at a time provided for in subsection (2)(b) of this section, the ombudsman shall make a written entry in an ombudsmen program file of the reason or reasons a particular condition requires access at such time.

(4) Resident visits by an ombudsman may be restricted or terminated by the resident without cause. A facility may restrict or terminate such visits only upon a documented physician's order so providing in express terms which shall be placed in the resident's file. However, if a resident freely and knowingly chooses to disregard such an order and to request continued visits, the ombudsman will honor the resident's choice. In such a case, the ombudsman may request the resident to sign a written statement indicating the resident's choice and stating the choice was freely and knowingly made.

(5) The ombudsman shall have access to a resident's records only after obtaining written consent from the resident, or the resident's guardian, limited guardian, or legal representative.

(6) Upon the resident's request, the volunteer ombudsman shall assist the resident or resident's representative to obtain appropriate access to his or her records.

(7) Ombudsmen shall not seek access to resident records if, in so doing, there is a reasonable likelihood the resident's identity may be disclosed without authorization in accordance with the provisions of this chapter.

(8) Ombudsmen and volunteer ombudsmen shall treat all information contained in residents' records as confidential. [Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-070, filed 1/17/85.]

WAC 388-18-080 Reporting requirements. (1) All local ombudsmen programs shall submit monthly reports to the state ombudsman office. All ombudsmen programs shall use the reporting forms provided by the state ombudsman office.

(2) Volunteer ombudsmen shall submit monthly activity reports to the volunteer coordinator.

(3) The volunteer coordinator shall submit volunteer ombudsmen activity reports to the state ombudsman.

(4) Failure to submit monthly reports to the state ombudsman office shall be a sufficient reason to revoke certification status. [Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-080, filed 1/17/85.]

WAC 388-18-090 Facility entry--Report and identification--Disclosure of purpose. (1) Upon reporting to a facility or as soon as is practicable after entering a facility, all ombudsmen and volunteer ombudsmen will report their presence to the facility administration and present identification issued and certified by the appropriate ombudsman office.

(2) Ombudsman and volunteer ombudsman picture identification shall be issued by the ombudsman office and include at least the following information:

(a) The name of the ombudsman;

(b) The name, address, and telephone number of the agency with which the ombudsman is associated; and

(c) The ombudsman's status as a volunteer ombudsman, if applicable.

(3) Nothing in this section shall be construed as authorizing disclosure of identities or other confidential information without authorization of the resident,

guardian, or personal representative. [Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-090, filed 1/17/85.]

WAC 388-18-100 Privacy during ombudsman visits.

(1) The provisions of this section apply to ombudsman visits to residents for the purpose of hearing, investigating and resolving complaints, or rendering advice.

(2) When making such visits, ombudsmen and volunteer ombudsmen will take appropriate measures to secure privacy for the visit.

(3) Generally, securing privacy during such visits will require the visit be conducted as a one-to-one conference between an ombudsman or volunteer ombudsman and a resident out of the presence of facility staff and any other person except the guardian or personal representative. By way of example, such conferences may be conducted in the following settings:

(a) A resident's enclosed, private room;

(b) A resident's shared room, when roommates or others are not present;

(c) A facility common area if adequate safeguards against inadvertent or other disclosure exist; or

(d) A facility office or other room if made available by the facility under conditions ensuring privacy.

(4) Conferences between an ombudsman and two or more residents or residents and facility administration may be necessary or appropriate to carry out the provisions of this chapter and applicable law. The ombudsman shall have discretion to seek such a conference, provided that, if there is a reasonable likelihood private, privileged, or confidential information may be revealed at the conference, the ombudsman shall obtain written authorization for release of such information, signed by appropriate parties in accordance with the provisions of this chapter and applicable law, before proceeding with the conference.

(5) Ombudsman and volunteer ombudsman shall comply with the expressed wishes or preferences of residents with regard to visits and shall exercise due regard for the rights of other residents and facility schedules and routines, subject only to the requirements of this chapter and applicable law. [Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-100, filed 1/17/85.]

WAC 388-18-110 Confidentiality of information.

(1) The following limitations on disclosure shall be strictly observed:

(a) No records or files of ombudsmen relating to any complaint or investigation shall be disclosed unless disclosure is authorized by the resident or by the resident's guardian, limited guardian, or legal representative.

(b) The identity of any complainant, witness, patient, or resident shall not be disclosed unless:

(i) Such informant or guardian, limited guardian, or legal representative thereof, consents in writing to such disclosure; or

(ii) The disclosure is required by court order.

(2) The files and records of all ombudsmen programs shall be kept locked at all times when not in use, and access to these files shall be limited to ombudsmen.

(3) Each ombudsman program shall designate one or more ombudsmen to have authority over the disposition of records and files.

(4) All ombudsmen programs shall have and keep in force written procedures and forms relating to the disclosure of confidential information. Such procedures and forms shall be reviewed by and subject to the approval of the state ombudsman office. s [Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-110, filed 1/17/85.]

WAC 388-18-120 Referrals. (1) The state office shall develop procedures to be followed by all ombudsmen and ombudsmen programs with regard to referrals to other public and private agencies.

(2) No referral shall be made to any public or privacy agency in a manner compromising any individual's rights to anonymity, privacy, or confidentiality unless authorized in accordance with the provisions of this chapter and applicable law.

(3) The ombudsman office shall make appropriate referrals to other public and private agencies. [Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-120 filed 1/17/85.]

WAC 388-18-130 Posting requirements. (1) Every long-term care facility shall post in a conspicuous location a notice of the nursing home complaint toll-free number and the name, address, and telephone number of the office of the long-term care ombudsman and a description of the services provided by the office.

(2) The office shall provide a form of the notice approved by the office and the bureau of nursing home affairs.

(3) If a long-term care facility wishes to post a different form of the notice rather than the one provided, the facility must receive prior approval from the office and the bureau of nursing home affairs, and in the meantime, the facility must post the approved form of the notice described in this subsection.

(4) This information shall also be distributed to the residents, family members, and legal guardians upon the resident's admission to the facility. [Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-130, filed 1/17/85.]

Chapter 388-24 WAC

AID TO FAMILIES WITH DEPENDENT CHILDREN—ELIGIBILITY

WAC

388-24-040	Aid to families with dependent children—Summary of eligibility conditions.
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388-24-050	Aid to families with dependent children—Assistance unit.
388-24-052	Provision of Social Security numbers.
388-24-055	Aid to families with dependent children—regular—Deprivation of parental support or care.

388-24-065	Aid to families with dependent children—Deprivation due to incapacity.
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388-24-074	Aid to families with dependent children—employable—Deprivation due to unemployment of a parent.
388-24-107	Eligibility conditions applicable to AFDC-R and AFDC-E—Registration for WIN/employment and training.
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388-24-137	Continuation of assistance when deprivation ceases.
388-24-250	Consolidated emergency assistance program—Conditions of eligibility.
388-24-253	Exempt income and resources.
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388-24-260	Consolidated emergency assistance program—Certification period.
388-24-265	Consolidated emergency assistance program (CEAP)—Eligible persons.
388-24-270	Consolidated emergency assistance program (CEAP)—Grant standards.
388-24-550	Assistance to minor child.

WAC 388-24-040 Aid to families with dependent children—Summary of eligibility conditions. Effective September 1, 1985, AFDC shall be granted in behalf of a needy child:

(1) Who is under the age of eighteen years;

(a) AFDC may be granted to a pregnant woman with no other children, provided there is medical confirmation the pregnant woman 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 388-26-055 through 388-26-105;

(3) Who is deprived of parental care and support because of death, continued absence, unemployment, or incapacity of a parent or stepparent – see WAC 388-24-055 through 388-24-074. A parent is a person acknowledging parentage and meeting the criteria in the Uniform Parentage Act (chapter 26.26 RCW) or a person whose parentage has been established by court order. For the purpose of determining eligibility for AFDC, a person not married to the child's parent when the child was born, or whose parentage has not been established by court order, shall be considered a parent only for periods beginning on or after the date the department documents the person acknowledges parentage and meets the criteria of the Uniform Parentage Act. If parentage is contested, a court order will be required to determine parentage. If unemployment of a parent or stepparent is the basis of deprivation, all provisions of WAC 388-24-074 apply;

(4) Whose parent or stepparent, if incapacitated, does not refuse available medical treatment without good cause as specified in WAC 388-24-065(11);

(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) 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; except, the school or training requirement shall not apply to an unmarried parent eighteen years of age and under nineteen years of age when such parent and his or her child live in the home of such parent's parent or legal guardian. Such parents shall be included in an assistance unit as a needy child under rules applicable to minor parents in WAC 388-24-050(3) without regard to school or training attendance.

(10) For persons to be included in the AFDC assistance unit, see WAC 388-24-050. [Statutory Authority: RCW 74.08.090. 85-18-041 (Order 2275A), § 388-24-040, filed 8/30/85; 83-22-066 (Order 2033), § 388-24-040, filed 11/2/83. 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 388-24-044 Mandatory monthly reporting.

(1) As a condition of continuing eligibility for AFDC,

certain recipients must return to the department a completed monthly report by the fifth day of the month following the month for which the report describes the household circumstances. Recipients required to report monthly are those who:

- (a) Are currently employed, or
- (b) Have recent work history.

(2) Recent work history is defined as having received earnings in one of the two months prior to the payment month.

(3) Recipients with recent work history are required to report for three months, including the last month of earnings.

(4) Approved applicants with recent work history shall be required to report for two months beginning the month following the month of opening.

(5) The first report month for newly employed recipients shall be the month following the month the department becomes aware of the earnings.

(6) Recipients, for purposes of mandatory monthly reporting, include recipients having earned income deemed to them from individuals living with them who have earned income or recent work history.

(7) Failure to return a completed report by the fifth day of the month shall result in termination except as provided in subsection (8) of this section.

(8) 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 (7) of this section, the department shall:

- (a) Accept the replacement form; and

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

(9) 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 shall give adequate notice to the recipient.

(10) Requirements in subsections (3), (4), (5), and (6) of this section are effective with monthly reports generated in November 1985. [Statutory Authority: RCW 74.08.090, 86-01-010 (Order 2316), § 388-24-044, filed 12/5/85; 84-23-028 (Order 2169), § 388-24-044, filed 11/14/84; 84-09-074 (Order 2096), § 388-24-044, filed 4/18/84; 83-17-012 (Order 1993), § 388-24-044, filed 8/5/83; 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. Effective September 1, 1985, AFDC is paid to eligible persons on an assistance unit basis. Assistance units shall be composed of groups of certain individuals residing together.

(1) Certain individuals, if living in the family home, must be included in a single assistance unit for determination of eligibility and payment amount; such individuals, except as provided in WAC 388-28-590, shall be included in the assistance unit regardless of their income or resources, and shall be excluded only if ineligible due to factors not related to need. Such ineligible individuals include, but are not limited to:

- (a) Recipients of SSI benefits;
- (b) Aliens not meeting the citizenship and alienage requirements as specified in WAC 388-26-120; and
- (c) Individuals under sanction for noncooperation with the work incentive or employment and training programs as provided in WAC 388-24-107, or with child support enforcement as provided in WAC 388-24-108 and 388-24-109.

(2) The following individuals, under the conditions specified in subsection (1) of this section, if living in the home, must be included in a single assistance unit:

(a) The child or children, including all natural or adoptive full or half brothers or half sisters of such child or children; and

(b) The natural or adoptive parent or parents, or stepparent or stepparents [with whom the child or children live; or]. A minor parent must be included in the same assistance unit as such minor parent's eligible child or children.

(3) The following individuals, if living in the family home, may be included in a single assistance unit with the eligible child or children at the option of the family:

(a) One needy relative caretaker of specified degree whose eligibility depends solely on caring for the child or children, if a parent or parents do not reside in the family home;

(b) The stepbrothers or stepsisters of a child or children included in the assistance unit; except a stepbrother or stepsister must be included in the assistance unit as specified in subsection (1) of this section if the assistance unit includes such stepchild's natural or adoptive full or half brother or half sister.

(c) The natural or adoptive parent or parents or stepparent or stepparents of a minor parent, including a parent eighteen years of age and under nineteen years of age as specified in WAC 388-24-040(9), shall have the option of not being included in the assistance unit of the minor parent and minor parent's eligible child; except a minor parent's parent or stepparent shall be included in a single assistance unit with the minor parent and the minor parent's child when the following conditions are met:

(i) The minor parent's parent or stepparent requests assistance as the needy caretaker relative of the minor parent, or the minor parent's child, or the minor parent's full or half brother or half sister; and

(ii) The minor parent is not legally married or has been married and the marriage has been annulled. If a minor parent is legally married, including a minor parent whose marriage has been dissolved due to legal action other than annulment, a separate assistance unit shall be established to include the minor parent, such minor's child, and such minor's spouse if living in the home; and

(iii) The other parent of the minor parent's child does not live in the home. If the other parent lives in the home, a separate assistance unit shall be established to include the minor parent, the other parent, and their child. If the separate assistance unit is ineligible due to factors not related to need, and the minor parent is not married, the minor parent must be included as a needy

child in the assistance unit of his or her parent or step-parent requesting assistance as specified in subsection (3)(c)(i) of this section.

(4) A single assistance unit shall also be established for:

(a) Only the eligible child or children, including siblings and half-siblings, when:

(i) The child or children's parent or parents are not eligible; or

(ii) The child or children live with a nonneedy relative of specified degree not legally responsible for the support of the child or children; or

(iii) The child or children live with a needy relative of specified degree receiving SSI; or

(iv) The child or children are recipients of AFDC-FC.

(b) Only the eligible parent or parents, 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.

(c) Only the woman in her third trimester of pregnancy and has no other child or children.

(5) 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; and

(ii) A separate assistance unit is established for the relative in training.

(b) The child or children live with a nonresponsible relative of specified degree who is a member of another assistance unit.

(6) Two or more assistance units are necessary when two or more persons not married to each other each has his or her own child or children, and there is no child in common; a separate assistance unit is established for each parent and his or her eligible child or children.

(7) When a relative of specified degree is eligible to receive assistance for two or more children for whom he or she is not legally responsible:

(a) One assistance unit is established for each group of children who are siblings; and

(b) A separate assistance unit or units is established for each of the other nonsibling children, except if a nonsibling child is the child of a minor parent and the minor parent lives in the home, such child shall be included in an assistance unit as specified in subsections (2) and (3) of this section. [Statutory Authority: RCW 74.08.090. 85-18-041 (Order 2275A), § 388-24-050, filed 8/30/85; 83-22-066 (Order 2033), § 388-24-050, filed 11/2/83; 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.]

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 388-24-052 Provision of Social Security numbers. (1) As a condition of eligibility each applicant for or recipient of assistance shall be required to:

(a) Furnish a Social Security number for all persons whose needs are considered in determining the amount of assistance, or

(b) Apply for Social Security numbers if they are unknown or have not been issued.

(2) The applicant/recipient has the responsibility to report promptly and accurately any new Social Security number within twenty days of its receipt per WAC 388-38-255.

(3) Assistance will not be denied, delayed, or terminated pending issuance of Social Security numbers if the applicant/recipient provides verification that he or she has met the requirement in subsection (1)(b) of this section.

(4) If the applicant or recipient fails to comply with the requirement to furnish or apply for Social Security numbers for each person included in the assistance unit, eligibility for such person or persons cannot be determined and they shall be excluded from the assistance unit.

(5) The department shall assist the applicant in obtaining a Social Security number by referring him or her to the nearest Social Security office and by furnishing to the client from department records any verification requested by the Social Security administration.

(6) These rules shall be effective September 1, 1985. [Statutory Authority: RCW 74.08.090. 85-18-041 (Order 2275A), § 388-24-052, filed 8/30/85; 80-06-066 (Order 1501), § 388-24-052, filed 5/22/80; Order 1054, § 388-24-052, filed 9/25/75.]

WAC 388-24-055 Aid to families with dependent children--regular--Deprivation of parental support or care. Effective September 1, 1985:

(1) "Parent" as used in this and following sections means a natural or adoptive parent or stepparent. A parent-child relationship is considered to exist if the criteria in the Uniform Parentage Act (chapter 26.26 RCW) are met and the parents are acknowledging parentage. If parentage is contested, it can only be determined by a court of law.

(a) An adoptive parent has the same rights and responsibilities as a natural parent in respect to the adopted child.

(b) A stepparent, legally married to a child's parent has the same rights and responsibilities as a natural parent for the care and support of his or her stepchild. See WAC 388-28-350.

(2) A child deprived of parental support or care may or may not be in financial need. Need is a factor to be determined separately.

(3) Deprivation of a child of unmarried parents is determined on the same basis as a child of married parents.

(4) A child living with a parent and a nonrelated adult is deprived because of the absence or death of the other natural or adoptive parent. The responsibility of the nonrelated adult to support the child is a financial need factor only – see WAC 388-28-355. Also see WAC 388-24-108 through 388-24-114 in respect to support from the absent parent. [Statutory Authority: RCW 74.08.090, 85-18-041 (Order 2275A), § 388-24-055, filed 8/30/85; 83-22-066 (Order 2033), § 388-24-055, filed 11/2/83; 78-10-036 (Order 1338), § 388-24-055, filed 9/18/78; Order 1001, § 388-24-055, filed 1/14/75; Order 597, § 388-24-055, filed 9/1/71; Order 530, § 388-24-055, filed 3/31/71, effective 5/1/71; Regulation 6.221, filed 8/29/66; Regulation 6.221, filed 12/31/65.]

WAC 388-24-065 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 or 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 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 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 subsection (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 medical evidence.

(a) The primary source of evidence for a physical incapacity will be a written report from a physician, a certified registered nurse (CRN) if within area of certification, or the chief of medical administration, or his or her designee, of the Veterans' Administration as authorized in federal law.

(b) The primary source of evidence for a mental incapacity must be a report from a psychiatrist, a clinical psychologist, or a mental health professional designated by the local community mental health agency as defined in RCW 71.05.020, except a physician may evaluate a mental condition at the department's discretion.

(c) Any of the aforementioned may be used as primary sources of evidence for incapacity due to alcoholism or drug addiction.

(d) Supplemental evidence may be obtained from other treating practitioners, to include a chiropractor, nurse, physician's assistant, or DSHS institutions or agencies from which the individual is receiving or has received services.

(e) These reports must include a diagnosis and prognosis for the incapacitating condition and the effect of the condition on the individual's ability to function, along with relevant medical history and sufficient medical documentation to support any conclusions of incapacity.

(4) Incapacity due to mental or emotional disorders (including addictive dependence on alcohol or drugs) shall be determined on the basis of distinct impairments substantially reducing 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 inability to understand, remember, and follow instructions or inability to communicate appropriately with others may be sufficient to establish incapacity.

(5) Individuals 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 (11) of this section.)

(6) The medical evidence 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.

(7) Deprivation due to incapacity shall be determined by the department in accordance with the criteria in subsections (1) through (6) of this section. The department 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.

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

(9) 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.

(10) 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 medical documentation.

(11) Acceptance of available medical treatment:

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

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

(ii) "Reasonably be expected to render him or her employable" shall mean that, in the opinion of the department, 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 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 the department shall determine whether the individual is justified in refusing recommended medical treatment.

(b) An individual is justified in refusing recommended available medical treatment when, according to the best objective judgment of the department, 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 or she now has, and refuses to accept the risk;

(iii) The individual will not accept recommended medical treatment because of religious scruples.

(iv) The individual is temporarily unable to participate in medical treatment due to an intervening incapacity. [Statutory Authority: RCW 74.08.090. 84-19-047 (Order 2153), § 388-24-065, filed 9/17/84; 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. Effective September 1, 1985:

(1) Determination whether a child has been deprived of parental support or care is made in relation to a child's natural parent or parents, as defined in WAC 388-24-040(3), adoptive parent, or stepparent. The term parent as used in this section refers to any of those relationships.

(2) Continued absence of a parent from the home, whether or not the natural parents have taken legal action to separate or to dissolve or annul the marriage, 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 either 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) When the continued absence of a parent as specified in subsection (2)(a) of this section is established, it is assumed that one or more of the elements of parental functioning as specified in subsection (2)(b) of this section are interrupted sufficiently to establish deprivation. The interruption of such parental functioning is assumed even though the parent whose absence is established is in contact with the child due to court ordered visitation, joint custody, or otherwise. The assumption parental functioning is interrupted can be rebutted only if the absent parent routinely visits the child, and there is clear evidence the absent parent provides all elements of parental functioning with no interruption of such functioning attributable to the absence. Documentation of any reduction of one or more of the elements of parental care due to the absence shall establish deprivation. For the purpose of determining whether parental functioning is interrupted due to the absence in such cases, the following definitions apply:

(a) "Maintenance" means either financial support paid directly to the child's household or substantial in-kind contributions of food, clothing, and other necessities, and the value of such support payments or contributions, when considered separately or in any combination, is sufficient to meet the prorated share of the child's monthly need based on the need standard for the number of persons in the child's assistance unit as specified in WAC 388-29-100.

(b) "Physical care" means providing continuous care of the child on a day-to-day basis by performing tasks required in the child's daily life. Such tasks include, but are not limited to, depending upon the age of the child:

Providing clean clothing, dressing, preparing meals, feeding, supervising bedtime, and assisting with other personal care needs.

(c) "Guidance" means day-to-day parental participation in and responsibility for the child's physical, emotional, and intellectual development. Such participation includes, but is not limited to, depending upon the age of the child: Accompanying to doctor visits, attending school conferences, disciplining, and participating in decisions concerning the child's well-being and extracurricular activities.

(4) The requirements for establishing deprivation due to continued absence in subsections (2) and (3) of this section are applicable regardless of:

(a) The reason for the parent's absence; except that a parent whose absence is due solely to serving on active duty in the uniformed military services of the United States is not considered absent.

(b) The duration of the parent's absence except:

(i) For applicants, when the department's best estimate based on available evidence is that an absent parent will return to reside in the home at any time within the month of initial grant authorization or the month following the month of initial grant authorization, eligibility is determined prospectively as specified in WAC 388-28-483. If the department's best estimate is that the absent parent will return to the home within the month of initial grant authorization, deprivation does not exist. If the department's best estimate is that the absent parent will return to the home within the month following the month of initial grant authorization, deprivation may exist for the initial month of grant authorization according to the requirements of subsections (2) and (3) of this section, but deprivation does not exist for the month following the month of initial grant authorization.

(ii) For recipients, after the first two months of eligibility, when the department determines an absent parent will be returning to the home, eligibility is determined according to WAC 388-33-135(4), and deprivation ceases the end of the month in which the parent returns to the home.

(5) Applicants or recipients covered under subsection (4)(b) of this section are fully entitled to a redetermination of eligibility for other benefits prior to termination and to advance and adequate notice of termination including a right to hearing as specified in WAC 388-33-376 and 388-33-385.

(6) Deprivation due to continued absence is considered established when a parent convicted of an offense is permitted to reside in the family home but is required by the court to perform unpaid work or unpaid community service.

(a) The needs of the convicted parent will not be included in the determination of eligibility or the payment of financial assistance.

(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.

(7) 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.

(8) The rules in subsections (2), (3), (4), and (5) of this section are effective October 4, 1984. [Statutory Authority: RCW 74.08.090, 85-18-041 (Order 2275A), § 388-24-070, filed 8/30/85; 83-22-066 (Order 2033), § 388-24-070, filed 11/2/83; 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 388-24-074 Aid to families with dependent children—employable—Deprivation due to unemployment of a parent. Effective September 1, 1985, to be eligible for AFDC-E, an applicant shall be a child whose qualifying parent meets the requirements in this section.

(1) The qualifying parent is that parent earning the greater amount of income in the last twenty-four-month period, the last month of which immediately precedes the month in which the application for assistance is filed.

(a) If the client and CSO cannot secure verification of earnings for this period, the CSO shall designate the qualifying parent using the best evidence available.

(b) The earnings of both parents are considered in determining the qualifying parent, regardless of when the relationship began.

(c) The designated qualifying parent remains the qualifying parent for each consecutive month the family remains on assistance based on the current application.

(d) If both parents earned an identical amount of income, the CSO shall designate the qualifying parent.

(2) The child must be deprived of parental care and support because of the unemployment of a natural parent, adoptive parent, or stepparent who satisfies all the requirements in this section to qualify the assistance unit.

A parent or stepparent is considered to be unemployed when:

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

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

(3) The qualifying parent or stepparent must have been unemployed as defined in subsection (2) of this section for at least thirty days prior to the date AFDC-E is authorized.

When AFDC-E is terminated due to full-time employment of the unemployed parent or stepparent, no

additional waiting period is required if the full-time employment ends within thirty days of termination and the individual reapplies and is found otherwise eligible for AFDC-E.

(4) The qualifying parent or stepparent must not have refused a bona fide offer of employment or training for employment or has not voluntarily left a job without good cause during the same thirty-day period.

(5) The child must meet the eligibility conditions specified in WAC 388-24-040 and 388-24-090 through 388-24-125.

(6) The child's qualifying parent or stepparent:

(a) In WIN areas, must be registered for the WIN program unless exempted by WAC 388-24-107. If exempt from WIN registration due to remoteness, must be registered for employment with the local DES office.

(b) In non-WIN areas, must be registered for employment with the local DES office and for E&T unless exempted by WAC 388-24-107. If exempt from E&T registration due to remoteness, must still be registered for employment with the local DES office.

(7) The qualifying parent or stepparent, if eligible for unemployment compensation, has not refused to apply for or accept such compensation.

(8) The qualifying parent or stepparent:

(a) Has had six or more quarters of work within any thirteen calendar quarter period ending within one year prior to the application for assistance. A "quarter of work" means a calendar quarter in which he or she earned income of not less than fifty dollars, or in which he or she participated in the work incentive (WIN) program or community work experience program (CWEP). A "calendar quarter" means a period of three consecutive calendar months ending March 31st, June 30th, September 30th, or December 31st, or

(b) Within one year prior to his or her application received or would have been eligible to receive unemployment compensation had he or she applied; or if the employment which he or she had was not covered under the unemployment compensation law of the state or the United States, his or her work history was such that had his or her employment been covered, he or she would have been eligible.

(9) The child must be living with both natural parents, adoptive parents, or a parent and stepparent except that one may be temporarily absent for up to ninety days to search for employment with the expectation of continuing to live with the family. The absent parent must meet the requirements in WAC 388-24-107.

(10) AFDC will not be denied or terminated solely because of an individual's participation in institutional and work experience training or in public service employment under the WIN program. [Statutory Authority: RCW 74.08.090. 85-18-041 (Order 2275A), § 388-24-074, filed 8/30/85; 83-22-066 (Order 2033), § 388-24-074, filed 11/2/83.]

WAC 388-24-107 Eligibility conditions applicable to AFDC-R and AFDC-E--Registration for WIN/employment and training. (1) As a condition of eligibility for AFDC, every individual shall register for

and participate in the WIN or employment and training (E&T) program and/or the employment search program unless such individual is:

(a) A dependent child under age sixteen or age sixteen but not yet nineteen and is attending full time, or has been accepted for enrollment as a full-time student for the next school term, in an elementary or secondary school, or the equivalent level of vocational or technical training, and reasonably expected to complete such course prior to the end of the month he or she reaches nineteen;

(b) A person who is ill, incapacitated, or sixty-five years of age or older;

(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 personally providing care for the child is exempt, unless the caretaker is a full-time day college student as defined by the school;

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

(g) A woman in the third trimester of pregnancy;

(h) The parent of a child when the other parent or stepparent is in the home and is not exempted by subsection (1)(a), (b), (c), (d), (e), (f), or (g) of this section; or

(i) A full-time VISTA (volunteers in service to America) participant who was determined eligible for AFDC prior to becoming a VISTA volunteer.

(2) Any applicant or recipient has a right to a fair hearing to contest a determination of nonexempt status and shall be considered as exempt until his or her status is finally determined. (See WAC 388-57-090.)

(3) The requirements of any individual, other than the parent qualifying the assistance unit for AFDC-E, 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.

(4) 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.

(5) 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.

(6) 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 74.04.400, 86-01-001 (Order 2313), § 388-24-107, filed 12/5/85. Statutory Authority: RCW 74.08.090, 83-22-066 (Order 2033), § 388-24-107, filed 11/2/83. 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 388-24-125 Eligibility conditions applicable to AFDC--Living in home of relative of specified degree.
Effective September 1, 1985:

(1) Relationship of child to relative:

(a) A dependent child to be eligible for AFDC-R must be living with one or more of the following relatives in a place of residence the relative or relatives 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-E must be living with both natural parents, or adoptive parents, or a parent and stepparent. In order to determine members of the assistance unit, see WAC 388-24-050 also.

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

(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 the child is an accepted member of a family unit, and therefore, has a close and direct relationship with a specified relative assuming parental responsibility for the care, guidance, and control of the child.

(b) The "home" is a family setting maintained or 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 or her 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 or her 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 attendance 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 or 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 the 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 the same thirty-day period. [Statutory Authority: RCW 74.08.090. 85-18-041 (Order 2275A), § 388-24-125, filed 8/30/85; 83-22-066 (Order 2033), § 388-24-125, filed 11/2/83; 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 388-24-137 Continuation of assistance when deprivation ceases. Effective September 1, 1985:

(1) When deprivation due to incapacity, absence, or unemployment ceases and the family remains in need, the CSO shall determine if any other basis for deprivation exists.

(2) If no other deprivation exists, assistance will be discontinued at the end of the calendar month in which deprivation ends. [Statutory Authority: RCW 74.08.090. 85-18-041 (Order 2275A), § 388-24-137, filed 8/30/85; 83-22-066 (Order 2033), § 388-24-137, filed 11/2/83; 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 28, 1985, the consolidated emergency assistance program (CEAP) shall be granted to families with dependent children who meet all of the following eligibility conditions:

(1) Have monthly income less than fifty percent of the need standard for AFDC households with shelter costs.

(2) Are in financial need.

(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, GA-U, 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, GA-U, refugee assistance, medical assistance for CEAP applicants requesting emergent medical care, or food stamps for CEAP applicants requesting emergent food assistance.

(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 the 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, GA-U 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 388-57-064(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, 85-20-022 (Order 2284), § 388-24-250, filed 9/23/85; 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 388-24-253 Exempt income and resources. In determining financial need and the amount of assistance in CEAP, the following shall be disregarded as income and resources:

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

(2) A used and useful vehicle with an equity value not to exceed one thousand five hundred dollars;

(3) Used and useful household furnishings;

(4) Used and useful personal effects;

(5) Tools and equipment used and useful in the person's occupation;

(6) Livestock, the products of which are consumed by the applicants and his or her dependents;

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

(8) The value of the coupon allotment under the Food Stamp Act of 1977, as amended;

(9) Any compensation provided to volunteers in ACTION programs established by Titles II and III of P.L. 93-113, the Domestic Volunteer Service Act of 1973;

(10) Any compensation provided volunteers in ACTION programs established by Title I of P.L. 93-113, the Domestic Volunteer Service Act;

(11) 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;

(12) Payments made under the Community Services Administration's Emergency Energy Conservation Program of 1979; and

(13) Energy assistance payments. [Statutory Authority: RCW 74.08.090, 85-20-022 (Order 2284), § 388-24-253, filed 9/23/85.]

WAC 388-24-254 Determining income for CEAP. In determining income for CEAP, the following shall be considered:

(1) Recurrent income shall be considered available in the month it will be received provided:

(a) Income not yet received by the time of application, but expected to start during the month, shall be considered as nonrecurrent; and

(b) The last income from a recurring source shall be counted if it is expected to be received on or after the date of application.

(2) Nonrecurrent income shall be considered available in the month it will be received provided the income is received prior to authorization. [Statutory Authority: RCW 74.08.090, 85-20-022 (Order 2284), § 388-24-254, filed 9/23/85.]

WAC 388-24-255 Consolidated emergency assistance program (CEAP)—Financial need and benefit amounts. In determining financial need and benefit amounts, the following shall be considered:

(1) 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.

(2) Income, cash on hand (if not already counted as income), 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.

(a) If the amount of income, cash on hand, and nonexempt resources are the same as or are greater than the applicant's needs for the certification period, the applicant shall be ineligible.

(b) 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. [Statutory Authority: RCW 74.08.090, 85-20-022 (Order 2284), § 388-24-255, filed 9/23/85; 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 cannot exceed one calendar month.

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

(3) CEAP may not be paid to persons who received emergency assistance from the department within the last twelve months. [Statutory Authority: RCW 74.08.090, 85-20-022 (Order 2284), § 388-24-260, filed 9/23/85; 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. Effective September 1, 1985:

- (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 her or such relative's refusal without good cause to accept employment.

(2) The following may be included in the assistance unit:

- (a) The child or children under the age of eighteen.
- (b) Both parents, if married or if paternal relationship has been established (see WAC 388-24-050 (1)(b)). Otherwise, only the mother shall be included.
- (c) The needy caretaker relative or relatives with whom the child or children live.
- (d) Migrant workers with dependent children.
- (e) The pregnant woman, with no other child or children, who is in her third trimester of pregnancy.
- (f) 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).
- (g) 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. 85-18-041 (Order 2275A), § 388-24-265, filed 8/30/85; 83-22-066 (Order 2033), § 388-24-265, filed 11/2/83; 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 not to exceed the following payment maximums:

Number in Household	Maximum
1	304
2	385
3	476
4	561
5	646
6	731
7	847
8 or more	936

(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	166	210	260	306	352	400	462	511
Shelter	186	235	291	342	394	447	516	571
Clothing	22	27	34	40	46	52	60	67
Minor Medical	128	162	201	236	272	308	356	394
Utilities	43	55	68	80	92	105	121	134
Household Maint.	54	69	85	100	115	131	151	167

Clothing and transportation - as needed not to exceed the grant maximum. [Statutory Authority: RCW 74.08-.090. 85-20-022 (Order 2284), § 388-24-270, filed 9/23/85; 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 388-24-550 Assistance to minor child. (1) A minor is a person under the age of eighteen.

(2) Under state law (chapter 74.13 RCW, Child Welfare Services) the department is responsible for the protection and care of homeless, dependent, or neglected children or children in danger of becoming delinquent.

(3) If a minor applies for assistance for himself or herself, eligibility shall be determined according to WAC 388-24-040 and 388-24-125. If an unmarried pregnant minor is requesting an abortion, parental consent is not required. The decision to proceed with an abortion rests solely with the minor. Involvement and/or consultation with parents in reaching this decision should be a matter of individual case judgment.

(4) Financial eligibility of a minor cannot be established without a determination of the parent's ability to financially support and willingness to contribute. See WAC 388-83-130 for responsibility for medical care. Parental contact is not required when the minor applicant:

- (a) Is married,
- (b) Is in the military service,
- (c) Has been declared emancipated by a court of competent jurisdiction prior to the application for assistance,
- (d) Is applying for medical assistance related to pregnancy.

(5) The minor's emancipation status is not an eligibility factor. The identification of emancipation status is necessary to determine if there is parental responsibility for support.

(6) The minor applicant will be informed there will be communication with his or her parents during the period of determination of eligibility.

(7) If a minor parent and his or her child live with such minor's parent or parents, the assistance unit of the minor parent is established according to WAC 388-24-050. If the minor parent's parent is not included in the assistance unit of the minor parent, the income of such parent is considered available to meet the needs of the minor parent as specified in WAC 388-28-500(4).

(8) If a minor parent's legal guardian has a court-ordered responsibility for the support of such minor parent, such legal guardian's income, with respect to determining the availability of such income to meet the needs of the minor parent, shall be treated the same as the income of a minor parent's parent as specified in subsection (7) of this section. [Statutory Authority: RCW 74.08.090. 85-18-041 (Order 2275A), § 388-24-550, filed 8/30/85; Order 1097, § 388-24-550, filed 2/13/76; Order 1049, § 388-24-550, filed 8/29/75; Order 1007, § 388-24-550, filed 2/13/75; Order 842, § 388-24-550, filed 8/9/73; Order 741, § 388-24-550, filed 11/22/72.]

Chapter 388-26 WAC

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

WAC

388-26-120 Citizenship and alienage.

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), Section 207(c), Section 208, 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 United States 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 United States prior to December 24, 1952, and has maintained residence since entry. [Statutory Authority: RCW 74.08.090. 84-15-006 (Order 2119), § 388-26-120, filed 7/6/84; 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

388-28-300	Property rights and entitlements.
388-28-355	Nonrelated adult in household.
388-28-392	Community, separate, and jointly owned property—Time-loss compensation—Lien.
388-28-400	Effect of resources on financial need—Summary of basic policies.
388-28-410	Effect of resources on financial need—Exempt and nonexempt resources.
388-28-415	Effect of resources on financial need—Exempt resources.
388-28-420	Effect of resources on financial need—Real property—Home.
388-28-425	Effect of resources on financial need—Real property other than home—All programs.
388-28-430	Effect of resources on financial need—Personal property exemptions—Ceiling values—General assistance.
388-28-435	Effect of resources on financial need—Personal property exemptions—Ceiling values—AFDC and RA.
388-28-438	Effect of resources on financial need—Personal property exemptions—All programs.
388-28-439	Effect of resources on need—Property used in self-employment.
388-28-440	Accumulation and depletion of allowable cash resource reserves.
388-28-450	Nonexempt resources—Effect on financial need.
388-28-455	Repealed.
388-28-473	Property transferred contrary to WAC 388-28-471 and 388-28-472.
388-28-475	Use of income and income potentials.
388-28-480	Use of income and income potentials—Types of income—Effect on need.
388-28-482	Effect of newly acquired income and property on continuing need.
388-28-483	Retrospective budgeting, prospective budgeting, and prospective eligibility.
388-28-484	Treatment of newly acquired nonexempt income and resources.
388-28-500	Use of income and income potentials—Computing and allocating income.
388-28-515	Net cash income—Determination—Employment or training expenses—Deductions from gross income.
388-28-520	Income from self-employment.
388-28-530	Net cash income—Board, room rental, board and room.
388-28-535	Net cash income—Determination—Deductions from gross income—Income of child.
388-28-560	Net cash income—Income for support of legal dependents.
388-28-570	Net cash income—Exempt earned income.
388-28-575	Disregard of income and resources.
388-28-590	Alien sponsorship—Deeming of income and resources—Overpayments.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-28-455 Nonexempt resources—Real property—Nonexempt. [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.] Repealed by 84-07-019 (Order 2087), filed 3/14/84. Statutory Authority: RCW 74.08.090.

WAC 388-28-300 Property rights and entitlements. WAC 388-28-300 through 388-28-392 deal with rules governing rights to property as these affect eligibility for

public assistance. "Property" as used in this section includes both "resources" and "income" as defined in WAC 388-22-030. [Statutory Authority: RCW 74.08-090, 85-18-042 (Order 2276), § 388-28-300, filed 8/30/85; Order 1241, § 388-28-300, filed 9/23/77; Order 445, § 388-28-300, filed 4/28/70; Regulation 8.50, filed 1/24/64.]

WAC 388-28-355 Nonrelated adult in household.

(1) When a dependent child lives with one parent and another person not legally married to the parent:

(a) The parent must declare those portions of the income and resources of the nonrelated adult provided voluntarily for the support of the child or children and the parent.

(b) Only such income and resources which have been stipulated by the parent to be actually available on a regular basis to meet the needs of the parent and child or children shall be considered in determining the income available to the parent and child or children.

(2) Unwillingness of the nonrelated adult to contribute does not affect the child's eligibility for assistance.

(3) The needs of the nonrelated adult may not be included in the assistance unit - see WAC 388-24-050(1), 388-29-020 and 388-29-080(3).

(4) The natural parent is not relieved of a legal obligation to support his or her child by contributions from the nonrelated adult toward the child's support. [Statutory Authority: RCW 74.08.090, 85-18-042 (Order 2276), § 388-28-355, filed 8/30/85; 83-04-033 (Order 1940), § 388-28-355, filed 1/28/83, effective 3/1/83; 78-10-036 (Order 1338), § 388-28-355, filed 9/18/78; Order 1018, § 388-28-355, filed 4/23/75; Order 786, § 388-28-355, filed 4/12/73; Order 650, § 388-28-355, filed 2/9/72; Order 481, § 388-28-355, filed 9/29/70, effective 11/1/70; Order 445, § 388-28-355, filed 4/28/70; Regulation 8.54, filed 6/14/66; Regulation 8.54, filed 1/24/64.]

WAC 388-28-392 Community, separate, and jointly owned property--Time-loss compensation--Lien. (1)

The department of social and health services (DSHS) is authorized to file a lien upon the 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 time-loss 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 time-loss compensation. DSHS shall compute the department's claim for subrogation up to one hundred 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 withhold and deliver time-loss compensation to DSHS shall be mailed to a recipient no later than the next business day after such statement has been sent to the department of labor and industries or the self-insurer.

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

(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, 85-18-066 (Order 2280), § 388-28-392, filed 9/4/85; 82-12-066 (Order 1818), § 388-28-392, filed 6/2/82; Order 842, § 388-28-392, filed 8/9/73.]

WAC 388-28-400 Effect of resources on financial need--Summary of basic policies. (1) Meaning of resources.

(a) A resource is any property which the applicant possesses and can currently use to supply all or part of his or her requirements. See definition of "resource" and "income" in WAC 388-22-030.

(b) Property shall be considered a resource only when the property is actually at hand for current use and/or disposition by the applicant. Real and personal property shall be considered at hand for current use and disposition when the real and personal property can be utilized to supply requirements by use, by direct transfer to a buyer, by conversion into cash, or by a pledge of such asset.

(c) Resources shall be considered to be at hand for current use and/or disposition whenever the resources are in the form of real or personal property over which the applicant has title or control. Title exists in the form of record title to real estate and certain personal property, such as an automobile; title to most other personal property exists by mere possession. Title to property

raises a presumption of the right and ability of the title holder to use or dispose of such property.

(2) Consideration of resources and resource potentials.

(a) For the purpose of determining current and continued eligibility for public assistance, the local office shall evaluate the status of all real or personal property (community, separate, or jointly owned) held by or subject to the disposition or control of an applicant and his or her spouse and members of the assistance unit.

(b) Also, the resource potentials of such persons must be considered.

(3) Exempt resources. Exempt resources do not affect eligibility in terms of their disposition value but may in respect to the use or income producing value.

(4) Nonexempt resources. Any resource except those listed in WAC 388-28-420 and 388-28-430 as exempt is a nonexempt resource and shall be evaluated according to the resource's equity value—fair market value minus encumbrances (legal debts). The possession of all nonexempt resources affects eligibility. Their sale, pledge, lease, rental, or use values are used to determine financial need.

(5) Clarification of ownership or value.

(a) If there is evidence the applicant has a resource but there is also some doubt about the resource or about the resource's value, the applicant is responsible for clarifying the data to the extent of his or her ability to do so. Without such clarification, continuing eligibility cannot be established.

(b) If the applicant does not clarify the facts in question within a reasonable period of time set by the local office, but not to exceed forty-five days from date of application, eligibility does not exist for continuing assistance.

(c) If the applicant is handicapped in his or her ability to clarify his or her eligibility, the local office shall assist him or her to do so.

(d) If the applicant produces evidence supporting his or her eligibility but doubt of the evidence's reliability or conclusiveness still exists, the local office shall attempt to obtain conclusive evidence directly.

(6) An applicant must proceed to make available any resource which will reduce need.

In determining whether an applicant is proceeding with reasonable diligence to make a resource potential available to meet need, the local office is governed by the factors involved in individual situations. The applicant is responsible for submitting evidence in the form of statements or letters indicating the factors involved and the approximate time a final decision could be expected. A definite period of time is determined by the local office, made known to the applicant, and recorded.

(7) When an applicant has taken reasonably required action to make a resource potential available but without success, his or her current eligibility is not affected. However, if there is reason to believe the resource potential will be available later, his or her continued eligibility is conditional and subject to review at such later period at which time the appropriate policy herein is utilized. [Statutory Authority: RCW 74.08.090. 84-07-

019 (Order 2087), § 388-28-400, filed 3/14/84; 83-04-033 (Order 1940), § 388-28-400, filed 1/28/83, effective 3/1/83; Order 1096, § 388-28-400, filed 2/13/76; Regulation 8.61, filed 1/24/64.]

WAC 388-28-410 Effect of resources on financial need—Exempt and nonexempt resources. When a determination has been made that an applicant possesses a resource in accordance with the considerations in WAC 388-28-400, such resources shall be classified as exempt or nonexempt in accordance with WAC 388-28-415 through 388-28-455. [Statutory Authority: RCW 74.08.090. 84-07-019 (Order 2087), § 388-28-410, filed 3/14/84; 80-14-061 (Order 1547), § 388-28-410, filed 10/1/80; Regulation 8.62, filed 1/24/64.]

WAC 388-28-415 Effect of resources on financial need—Exempt resources. An applicant may possess and retain exempt resources and be eligible for public assistance. While the fact of ownership does not make an applicant ineligible, the use of such properties to produce income (such as rental of a room in the home), or to meet the cost of an item included in the standard of need (such as wood on the home property meeting the need for fuel) does affect financial need. [Statutory Authority: RCW 74.08.090. 84-07-019 (Order 2087), § 388-28-415, filed 3/14/84; 83-04-033 (Order 1940), § 388-28-415, filed 1/28/83, effective 3/1/83; Regulation 8.63, filed 1/24/64.]

WAC 388-28-420 Effect of resources on financial need—Real property—Home. (1) The applicant's home is an exempt resource subject to the conditions specified. There is no ceiling value on the home.

(2) A home is defined as real property owned and used by an applicant as a place of residence, together with a reasonable amount of property surrounding and contiguous thereto, including property normally considered and used as a part of a home, such as:

(a) Yard and home garden space;

(b) Road to get to the home;

(c) Right of way to and land holding a water supply;

(d) Outbuildings and land on which they are located serving a normal and useful function of the home, such as garage, woodshed, chicken house, barn, pasture for cow, etc. In this connection, the use of necessary land and buildings to produce self-consumed products is considered as a reasonable part of the home property;

(e) Real property used in a self-employment enterprise is treated according to WAC 388-28-439.

Property in addition to that covered under subsections (2)(a) through (2)(e) of this section is considered under WAC 388-28-425 and 388-28-450.

(3) The home when used as a place of residence by the applicant or by his or her dependents is an exempt resource.

(a) "Dependents" as used in this section means spouse of the applicant and/or minor children and disabled sons or daughters.

(b) "Disabled sons or daughters" means one or more unmarried, natural or adopted, minor or adult sons or

daughters with a medically-verified disability significantly handicapping them in performing employment or homemaking activities and dependent on the applicant for their livelihood.

(4) When the home is not being used for residential purposes by the applicant or by his or her dependents, the property shall be considered as a nonexempt resource subject to the exceptions in subsections (4)(a) and (b) of this section.

(a) An applicant absent from his or her home for temporary visits is considered as continuing to reside in his or her home unless he or she expresses his or her intent to abandon the home as a residence.

(b) Effective June 12, 1980, an applicant absent from his or her home for more than ninety days is presumed to have abandoned the home for residential purposes, except when such absence is due to natural disaster, hospitalization, or other health reasons. When such absence is over ninety days, and there is cause to believe the applicant will be unable to return to his or her home and the home is not occupied by his or her dependents, there shall be a rebuttable presumption the home is a nonexempt resource when the following conditions are met.

(i) The individual specifies in writing his or her intent not to return to the home and use the home as his or her place of residence either for himself or herself, or for his or her dependents, or

(ii) For medical absences, the CSO administrator, with the cooperation of the medical consultant, shall contact the president of the local medical society and ask that three doctors, one of which may be the attending doctor, review the existing medical findings and history and provide the CSO with a statement signed by all three physicians that it is their professional belief and opinion the individual, for health reasons, will either be able or unable to return to his or her home property. If the conclusion reached by the three physicians is not unanimous, this shall be so indicated.

In the event the evaluation from the three physicians indicates it is their medical opinion the individual will be able to return to his or her home during his or her lifetime, the home property shall continue to be considered as exempt property.

In the event the evaluation from the three physicians indicates unanimously it is their medical opinion the individual will be unable to return to his or her home during the remainder of his or her lifetime, the home, if not occupied by his or her dependents, shall be considered nonexempt property which can be made available to meet need.

The CSO administrator shall advise the president of the local medical society, as well as the physicians selected by the president, the department will pay each physician participating in the review an amount not to exceed ten dollars per case.

(iii) For absences resulting from natural disaster, the local office administrator determines the residence is accessible and inhabitable. When a home that is determined inaccessible or uninhabitable could, in the

judgment of the CSO administrator, become accessible and inhabitable with reasonable effort and expense to the applicant, the home is presumed to be a nonexempt resource. [Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-420, filed 8/30/85; 84-07-019 (Order 2087), § 388-28-420, filed 3/14/84; 80-14-061 (Order 1547), § 388-28-420, filed 10/1/80; Order 373, § 388-28-420, filed 8/1/69; Regulation 8.631, filed 1/24/64.]

WAC 388-28-425 Effect of resources on financial need--Real property other than home--All programs. If an applicant owns real property with net equity value in excess of the resource maximum, he or she may receive assistance for a period not to exceed nine months provided:

(1) He or she is making a good-faith effort to sell the property.

(2) He or she signs a repayment agreement and a lien is filed with the department at the time of application to repay the amount of aid received during such period that would not have been paid had the property been sold at the beginning of such period, but not to exceed the amount of the net proceeds of such sale.

(3) If the property is not sold within the nine-month period, or if eligibility ceases for any other reason, the entire amount of aid paid during such period is an overpayment. [Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-425, filed 8/30/85.]

WAC 388-28-430 Effect of resources on financial need--Personal property exemptions--Ceiling values--General assistance. (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 giving the personal property this value. When the intrinsic value is relatively high (stamp or coin collections, etc.), there may be need to review the personal property 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 resources which must be evaluated 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 subsections (2)(b) and (c) of this section and any

other resources not specifically exempted shall not exceed one thousand five hundred dollars for a single person, or two thousand two hundred fifty dollars for a family of two or more.

(b) Life insurance may have a cash surrender value not to exceed one thousand five hundred dollars considered as an exempt resource.

(c) Used and useful vehicles with an equity not exceeding the value of one thousand five hundred dollars or less is an exempt resource.

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

(4) A motor home is a motor vehicle originally designed, reconstructed, or permanently altered to provide facilities for human habitation. [Statutory Authority: RCW 74.08.090. 84-07-019 (Order 2087), § 388-28-430, filed 3/14/84; 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 388-28-435 Effect of resources on financial need--Personal property exemptions--Ceiling values--AFDC and RA. (1) Household furnishings and personal clothing essential for daily living are exempt resources without ceiling value. Such items 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.

(2) The total value of cash, marketable securities, cash discount value of real estate or chattel mortgages, sales contracts, cash surrender value of life 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. Possession of resources in excess of the maximum shall render the household ineligible.

(3) Term or burial insurance up to a maximum equity value of one thousand five hundred dollars per family member for the use of the applicant or applicants or recipient or recipients is exempt.

(4) One cemetery plot for each member of the assistance household is exempt personal property. Any additional plots shall be considered as a resource with other resources up to the ceiling maximum of one thousand dollars.

(5) One used and useful vehicle with an equity value of one thousand five hundred dollars or less is an exempt resource.

(6) Excess equity value of a used and useful vehicle and the equity value of other vehicles shall apply toward the limit in subsection (2) of this section.

(7) An income tax refund is a resource in the month received and considered with the resources in subsection (2) of this section. "Income tax refund" is defined as that portion of a payment received from the U.S. Internal Revenue Service (IRS) representing a refund of taxes previously paid. The Earned Income Tax Credit portion of an IRS payment is excluded from this definition. [Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-435, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-435, filed 1/30/85; 84-07-019 (Order 2087), § 388-28-435, filed 3/14/84.]

WAC 388-28-438 Effect of resources on financial need--Personal property exemptions--All programs. (1) Funds represented by values within the ceiling values are not used to determine financial need or to compute grants.

(2) 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 general assistance grants. If the funds are in excess of the ceiling value for AFDC and refugee assistance, the applicant/recipient is ineligible.

(3) 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.

(4) A joint account, an account held for another, or funds held for others 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 is derived from funds exclusively the other holder's and held and/or utilized solely for the benefit of that holder. All funds so verified shall not be considered actually available to the applicant or recipient.

(5) The equity value in the cash discount value of a chattel mortgage or sales contract represents the value of the resource.

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

(7) 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 the 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.

(8) 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.

(9) 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.

(10) 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.

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

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

(13) 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. [Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-438, filed 8/30/85; 84-07-019 (Order 2087), § 388-28-438, filed 3/14/84.]

WAC 388-28-439 Effect of resources on need--Property used in self-employment. (1) Real and personal property used in a self-employment enterprise such as land, buildings, 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:

(a) The exempted property must either produce income reducing 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.

(b) If stock, raw materials, or inventory of a business is exempted, any increase in 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.

(2) In the absence of an agreed plan, the business assets of a self-employment enterprise are nonexempt resources available to the owner in the amount of the sale value minus encumbrances, unless the resources are generally exempt under the provisions of WAC 388-28-420, 388-28-430, and 388-28-435.

(a) Accounts receivable are exempt resources under an agreed plan as long as diligent effort is being made to collect. If efforts to collect are unsuccessful, then the department shall require the accounts be turned over to a collection agency. Failure to do so will cause the accounts to become a nonexempt resource. When payment is received, it is treated as income pursuant to WAC 388-28-520.

(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. 85-18-042 (Order 2276), § 388-28-439, filed 8/30/85.]

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. Recipients 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 specified limits for a maximum of thirty days if it has already been considered in computing financial need.

(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 accrued over a period of time and received in one payment.

(b) Payments representing 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. 84-07-019 (Order 2087), § 388-28-440, filed 3/14/84; 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 388-28-450 Nonexempt resources—Effect on financial need. The possession of a nonexempt resource by an applicant affects his or her financial need to the extent the value of the resource decreases his or her need for public assistance.

(1) For all programs, the value assigned to such resources shall be the fair market value minus legal encumbrances.

(2) For general assistance, the value of such resource is deducted from the cost of applicant's requirements for one month at time of application and each succeeding eligibility review. If the value of nonexempt resources exceeds one month's appropriate payment level plus additional requirements, the applicant is ineligible.

(3) For AFDC and RA, the fair market value shall be reassessed if the applicant provides acceptable evidence that a good-faith effort has been made to sell the resource at the fair market value determined by the department and the value is less than the resource ceiling. If the total value of the nonexempt resource exceeds the maximum in WAC 388-28-435(2), the applicant is ineligible. [Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-450, filed 8/30/85; 84-07-019 (Order 2087), § 388-28-450, filed 3/14/84; Order 1241, § 388-28-450, filed 9/23/77; Regulation 8.64, filed 1/24/64.]

WAC 388-28-455 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-28-473 Property transferred contrary to WAC 388-28-471 and 388-28-472. (1) If a recipient transfers previously exempt property contrary to WAC 388-28-471 and 388-28-472 or if the proceeds from the transfer are used for purposes other than described in those rules, the value of the property transferred is considered available to meet need following effective date rules in WAC 388-33-135(3).

(2) The amount considered available to meet need shall be either his or her equity in the fair market value of the resource or the actual amount received, whichever is the greater. If the resource was a mortgage or conditional sales contract, the value of the equity transferred shall be the amount considered available to meet need. The transfer affects eligibility according to WAC 388-28-484 (2)(b) for AFDC and refugee assistance and the transfer affects eligibility according to subsections (3), (4), and (5) of this section for general assistance.

(3) If the grant is adjusted before the first of the month following transfer:

(a) Assistance is continued when the amount considered available from subsection (2) of this section and other income available during the month amounts to less than one month's requirements;

(b) Assistance is suspended when the amount considered available from subsection (2) of this section and other income available in the next two months is less than two months' requirements;

(c) General assistance is terminated when the amount considered available from subsection (2) of this section

and other income available in the next two months is more than two months' requirements. The future period of ineligibility is determined using current requirements and the method described in WAC 388-28-460.

(4) If the grant was not adjusted following effective date rules in WAC 388-33-135(3), partial or total ineligibility exists and the amount of overpayment is determined.

(a) The grant is continued if the amount considered available from subsection (2) of this section is completely liquidated as overpayment.

(b) The grant is suspended or terminated when the total amount considered available from subsection (2) of this section is not liquidated by the overpayment. The amount considered available after figuring the overpayment is used to determine future period of ineligibility using the rules in subsection (3)(b) or (3)(c) of this section as appropriate. The first of the month the assistance payment can be adjusted is used to establish the beginning of the future period.

(5) The rules in WAC 388-28-463 and 388-28-464 apply to transfers under this section. [Statutory Authority: RCW 74.08.090. 84-07-019 (Order 2087), § 388-28-473, filed 3/14/84; 83-04-033 (Order 1940), § 388-28-473, filed 1/28/83, effective 3/1/83; Order 1241, § 388-28-473, filed 9/23/77.]

WAC 388-28-475 Use of income and income potentials. (1) Meaning of income (see definition in WAC 388-22-030). Income includes all types of real or personal property, support from parent, stepparent, other nonrelated adult, stocks and bonds, wages, interest in an estate, income from farming, all benefits and entitlements from private and public agencies, such as OASDI, veterans' agencies, U.C., gifts and prizes in the form of cash or marketable securities, etc. Its value is used to compute financial need in accordance with the policies herein.

(2) Ownership and use of income and income potentials. The policies in WAC 388-28-300 through 388-28-420 regarding ownership and use of resources also govern the ownership and use of income and income potentials.

(3) Resources and income. WAC 388-28-400 through 388-28-457 contain policies and procedures for considering and using nonexempt resource values to determine financial need. WAC 388-28-475 through 388-28-600 covers policies and procedures used in computing income to determine financial need. The total nonexempt resource values and nonexempt net income values are compared with the appropriate payment level plus authorized additional requirements to determine financial need and, if it exists, the amount of the grant for which the applicant is eligible. [Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-475, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-475, filed 1/30/85; 83-04-033 (Order 1940), § 388-28-475, filed 1/28/83, effective 3/1/83; Order 1241, § 388-28-475, filed 9/23/77; Regulation 8.80, filed 1/24/64.]

WAC 388-28-480 Use of income and income potentials--Types of income--Effect on need. (1) An applicant or recipient whose nonexempt net income for the month exceeds the monthly payment level plus authorized additional 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.

(2) Treatment of income.

(a) The grant amount for the month the application is approved shall be determined by subtracting all net income, received or reasonably expected to be received during the calendar month, from the payment level plus authorized additional requirements. The remainder shall be prorated for the number of days after grant authorization. This prorated figure is the grant amount for the first month of eligibility.

(b) The grant amount for the month following the month of initial eligibility shall be determined by subtracting all net income, received or reasonably expected to be received during the calendar month, from the payment level plus authorized additional requirements. The remainder is the grant amount for the second month of eligibility.

(c) The grant amount for the third month of assistance and subsequent months shall be based upon income received in the budget/report month. WAC 388-28-483(3) is an exception to this rule.

(3) Irregular income up to five dollars per month received by a general assistance applicant or recipient may be disregarded towards meeting need by the local office if the probability exists that such future income will not be appreciable.

(4) Earned income credit (EIC) payments shall be considered earned income during the month received.

(5) Loans are not considered income, as defined in RCW 74.04.005(12), subject to the following restrictions:

(a) Any contractually agreed loan acquired by an applicant or recipient committing 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.

(b) Any other loan, regardless of the loan's ability to meet current needs, shall not be taken into account as income when it is verified the following conditions are met:

(i) The terms of the loan are stated in a written agreement between the lender and the borrower; and

(ii) The agreement clearly specifies the obligation of the borrower to repay the loan. The agreement must include a repayment plan providing for installments of specified amounts to begin within ninety days of the receipt of the loan and continue thereafter on a regular basis until the loan is fully repaid.

As part of the verification process, the recipient is required to submit loan contract papers or a written agreement setting forth the terms of the loan regarding

the loan's amount and the repayment plan. The agreement must be signed by the lender and the recipient as parties to the agreement.

(6) Repayments to a recipient of money previously loaned by the recipient to another party shall not be taken into account as income, since the loan represents income or resources already considered in computing need. The facts of the loan must be verified. Consider any interest paid on the loan as newly acquired income.

(7) A gift in-kind, named as follows, supplied on condition the gift in-kind 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 available to meet need.

(a) Real or personal property, excluding cash and marketable securities, exempted for an applicant and 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. 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. [Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-480, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-480, filed 1/30/85; 83-21-010 (Order 2031), § 388-28-480, filed 10/6/83; 83-04-033 (Order 1940), § 388-28-480, filed 1/28/83, effective 3/1/83; 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 388-28-482 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 in 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) of this section, such income shall be deducted from the payment level plus authorized additional requirements to determine grant amount beginning with the effective date specified in WAC 388-28-483. The amount deducted shall equal the following:

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

(b) At least his or her 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 or her 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) of this section 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 and JTPA 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 subsection (4)(a) and (b) of this section 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 considered available.

(e) Payment for funeral expenses for recipient. When a public assistance recipient dies, his or 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.

(f) Funds received by an applicant or recipient representing another person's or family's share of household costs are exempt as income provided that:

(i) Such payments do not represent legally obligated child support except as provided in WAC 388-28-484(7)(b), and

(ii) The provisions of subsection (5) of this section are met.

(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 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. 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 or she might place his or her whole grant in a bank account, along with his or her cash reserve, at the beginning of the month and then spend out of the account during the month. [Statutory Authority: RCW 74.08.090. 85-04-024 (Order 2200), § 388-28-482, filed 1/30/85; 83-04-033 (Order 1940), § 388-28-482, filed 1/28/83, effective 3/1/83; 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 388-28-483 Retrospective budgeting, prospective budgeting, and prospective eligibility. (1) The CSO shall determine eligibility based on the best estimate of income and circumstances which will exist in the month for which the assistance payment is made.

(2) For the first two months of initial eligibility, all income shall be budgeted prospectively. (See subsection (3) of this section for exceptions.) The CSO shall compute the amount of the assistance payment based on the expected income and circumstances which will exist in the month for which the assistance payment is made.

(a) An overpayment shall be established if the income is underestimated.

(b) A corrective payment shall be made if the income is overestimated.

(3) Retrospective budgeting shall be used for the first two months of initial eligibility when:

(a) There has been less than one month's break in assistance (i.e., the applicant received assistance in the preceding month, or would have received assistance except for the prohibition on payments less than ten dollars).

(b) Assistance had been suspended due to an extra payday for the month prior to the month of application, assistance had been terminated at the end of the month of suspension, and the applicant's circumstances for the initial authorization month have not changed significantly from those prior to termination.

(c) A case is reopened as terminated in error.

(4) After the first two months of initial eligibility, all income shall be budgeted retrospectively.

(a) The CSO shall compute the amount of assistance based on the income which existed in the second month preceding the month for which the payment is made.

(b) All income received during the calendar month of application approval shall be considered for retrospective budgeting purposes.

(c) Nonrecurrent income budgeted prospectively during the first two months of eligibility shall not be budgeted for the first and second payment month for which retrospective budgeting is used.

(d) Definitions:

(i) The calendar month for which payment is made shall be called the payment month.

(ii) The second calendar month preceding the payment month shall be called the budget/report month.

(iii) The calendar month between the budget/report month and the payment month shall be called the process month.

(5) See WAC 388-33-140 for effective date of increase or decrease of the grant. See WAC 388-33-135 for effective dates of ineligibility. [Statutory Authority: RCW 74.08.090, 85-18-042 (Order 2276), § 388-28-483, filed 8/30/85; 85-06-060 (Order 2210), § 388-28-483, filed 3/6/85; 83-23-058 (Order 2049), § 388-28-483, filed 11/16/83; 83-04-033 (Order 1940), § 388-28-483, filed 1/28/83, effective 3/1/83.]

WAC 388-28-484 Treatment of newly acquired nonexempt income and resources. (1) Income affects the grant amount according to the provisions of WAC 388-28-483.

(2) When the value of the income is taken into account in the assistance payment as specified in WAC 388-28-483, the following rules apply:

(a) If the income value plus any other income amounts to less than the payment standard plus authorized additional requirements and is recurrent or nonrecurrent, assistance is continued in the amount of the difference.

(b) For AFDC and refugee assistance, when the assistance unit's nonrecurrent income after applicable disregards exceeds the payment standard, 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 need standard plus authorized additional requirements. A minimum period of ineligibility shall be one month.

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

(ii) The period of ineligibility may be shortened when the following conditions are met:

(A) An event occurs which, had the assistance unit been receiving assistance, would result in an increase in the need standard, or

(B) The income received, or any part thereof, has become unavailable to the members of the assistance unit for reasons beyond their control, or

(C) Members of the assistance unit incur, become responsible for, and pay medical expenses.

(D) Assistance is authorized only after the event in subsection (2)(b)(ii)(A), (B), or (C) of this section has been verified and current eligibility has been established.

(c) If the nonrecurrent income equals or exceeds one month's payment level plus authorized additional requirements for general assistance, but is less than two months' payment level plus authorized additional requirements minus other income, the recipient is ineligible for a grant from the effective date specified in WAC 388-28-483, and his or her 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 payment level plus authorized additional requirements minus other income, the recipient is ineligible from the effective date specified in WAC 388-28-483 and the grant is terminated, except for persons 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' payment level plus authorized additional requirements minus other income, the recipient is ineligible from the effective date specified in WAC 388-28-483 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 making it impossible for him or her to live on his or her resource for the two-month period of ineligibility. The eligibility of a former recipient reapplying 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 according to chapter 388-44 WAC.

(4) If a general assistance recipient has been determined to be ineligible for a current or future period of time and his or her 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 eighty-five percent of the standard of need 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 WAC 388-28-483. 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 except for income identified in subsection (7)(a) and (b) of this section.

(a) In determining the total income of the family, the earned income of a child who is a full-time student is excluded for six consecutive months per calendar year.

(b) The first fifty dollars per month of the current monthly support obligation of any child support collected on the family's behalf or received by the family.

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

(d) Net income shall be defined as gross income less applicable disregards and deductions for which the applicant or recipient is eligible.

(8) Income taken into account in computing financial need according to subsection (2) of this section if retained by a GA-U recipient does not affect his or her 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 is applied. [Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-484, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-484, filed 1/30/85; 84-07-019 (Order 2087), § 388-28-484, filed 3/14/84; 83-04-033 (Order 1940), § 388-28-484, filed 1/28/83, effective 3/1/83; 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 388-28-500 Use of income and income potentials—Computing and allocating income. (1) Living arrangements, family relationships, and categories of assistance also affect the use of income in computing financial need as provided by the rules in this section.

(2) Except as provided in this subsection, the nonexempt net income of a person in his or her own home shall be attributed to the assistance unit of which he or she is a member.

(a) The total nonexempt net community income of a family having two or more eligible assistance units shall be divided equally between the assistance units unless some other division is preferred. An unequal division of the family income is not permitted if it increases the total amount of assistance (excluding medical care) to which the family would be entitled.

(b) Applicant with a nonapplying independent spouse.

(i) If all income is from community property or from community earnings other than wages, not less than one-half the total income shall be considered available to an AFDC applicant living with a nonapplying spouse.

(ii) Net income from wages or from the separate property of the nonapplying spouse shall be considered available to the applicant only to the extent the net income exceeds the amount of the nonapplying spouse's appropriate one-person payment level.

(iii) Wages or income from separate property of the applicant shall be considered as provided in WAC 388-28-365 and 388-28-370.

(iv) When income includes both community income and income from the separate property or from wages of the nonapplying spouse, at least half of the community income shall be considered available to the applicant,

plus any residue of the separate income or wages exceeding the amount of the appropriate one-person payment level of the nonapplying spouse.

(v) Retirement benefits shall be treated like wages.

(vi) Income in-kind shall be treated as community income.

(c) Exempted income shall not be used in computing the need of any assistance unit.

(d) For rules on nonrelated adults in the household, see WAC 388-28-355.

(3) The rules in subsection (2) of this section shall also apply to a person boarding and/or rooming in an adult family home or other nonmedical institution.

(4) The income of a minor parent's nonapplying parent or parents or legal guardian or guardians legally responsible for the support of such minor parent as specified in WAC 388-24-550(8), if residing in the same household, shall be considered as available to the assistance unit of such minor parent and such minor's child or children to the extent such income exceeds applicable disregards. This subsection applies to minor parents and parents eighteen years of age and under nineteen years of age as specified in WAC 388-24-040(9) whether or not such parents are married or otherwise meet the criteria in WAC 388-24-550(4). In counting such income, the following shall be disregarded:

(a) For each employed parent or legal guardian, the following amounts for work expenses depending upon the number of hours worked per month.

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

(b) An amount equal to the need standard as specified in WAC 388-29-100 for a group with the following members:

(i) The parent or parents or legal guardian or guardians living in the home; and

(ii) Any other individuals living in the home but not in the assistance unit, and are or could be claimed by the parent or parents or legal guardian or guardians as dependents for purposes of determining his or her federal income tax liability;

(c) The amount paid by the parent or parents or legal guardian or guardians to support individuals outside the home who could be claimed by him or her as dependents for the purpose of determining his or her federal income tax liability; and

(d) Payments by the parent or parents or legal guardian or guardians of child support or alimony to individuals outside the home.

(5) When a person in a medical institution is to receive an AFDC or continuing general assistance grant, family income shall be allocated first to the appropriate payment level of legal dependents computed according to standards in chapter 388-29 WAC and then to the maintenance needs of the individual computed according

to WAC 388-34-045, 388-34-085, 388-34-110, 388-34-120, or 388-34-378.

(6) The income of a person with other living arrangements is first applied to the grant requirements of the applicant and his or her dependents. Any remaining income shall be allocated for medical needs. [Statutory Authority: RCW 74.08.090, 85-18-042 (Order 2276), § 388-28-500, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-500, filed 1/30/85; 83-04-033 (Order 1940), § 388-28-500, filed 1/28/83, effective 3/1/83; 78-10-036 (Order 1338), § 388-28-500, filed 9/18/78; Order 917, § 388-28-500, filed 3/14/74; Order 758, § 388-28-500, filed 12/28/72; Order 445, § 388-28-500, filed 4/28/70; Regulation 8.83, filed 5/17/67; Regulation 8.83, filed 6/14/66, 7/13/65, 1/24/64.]

WAC 388-28-515 Net cash income--Determination--Employment or training expenses--Deductions from gross income. (1) "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 DES to any participant in a WIN program of institutional and work experience training is disregarded in AFDC.

(b) WIN transportation and related expense (TRE) payments are training incentive payments paid for the first thirty days of employment and are disregarded for AFDC purposes.

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

(3) For general assistance, personal and nonpersonal work expenses computed according to subsections (3)(a) through (5) of this section shall be deducted from earnings after applying the earned income exemptions in WAC 388-37-025.

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

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

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

(c) The client shall have the option to change methods whenever he or 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 or her use, the allowance shall be the cost for such transportation from the recipient's home to the stop nearest his or her 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 or her use, a recipient showing that he or she uses a vehicle to travel to and from employment or the training facility shall be allowed the actual cost of such transportation provided 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 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 it is verified 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, 85-18-042 (Order 2276), § 388-28-515, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-515, filed 1/30/85; 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 Income from 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.

(a) In order to establish eligibility for public assistance, a self-employed person must maintain and make available to the department a record clearly documenting 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 inventory has been declared exempt on the basis of an agreed plan pursuant to WAC 388-28-439.

(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 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(3) 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.

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

(p) Other expenditures 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. [Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-520, filed 8/30/85; 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 388-28-530 Net cash income--Board, room rental, board and room. (1) The net income from operating a rooming, boarding, or boarding and rooming home shall be computed as follows effective July 1, 1984.

(a) Boarder - The board payment received minus \$76,

(b) Roomer - The room rental received minus \$7.50,

(c) Boarder and roomer - The board and room payment received minus \$83.50.

(2) If a recipient is engaged in the management and operation of a rooming, boarding, or boarding and rooming home, the net income as computed in accordance with subsection (1) of this section is considered earned income to that recipient. [Statutory Authority: RCW 74.08.090. 84-13-049 (Order 2104), § 388-28-530, filed 6/18/84; 83-17-070 (Order 2008), § 388-28-530, filed 8/19/83; 80-15-002 (Order 1550), § 388-28-530, filed 10/2/80; 79-10-083 (Order 1434), § 388-28-530, filed 9/21/79; 78-10-054 (Order 1344), § 388-28-530, filed 9/22/78; Order 1234, § 388-28-530, filed 8/31/77; Order 1206, § 388-28-530, filed 4/29/77; Order 786, § 388-28-530, filed 4/12/73; Order 650, § 388-28-530, filed 2/9/72; Regulation 8.843, filed 1/24/64.]

WAC 388-28-535 Net cash income--Determination--Deductions from gross income--Income of child.

(1) 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 eligibility for six months when he or she is a full-time student and 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 attending 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 enrolled during the school term just completed and planning 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 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.

(2) A child may receive income paid in his or her behalf to the parent or parents or other needy caretaker relative. Such income includes earned income, allotments, retirement, survivors and disability insurance, veterans' benefits, court-ordered support payments, trust fund payments, or other income legally designated for the benefit of an individual child. Such income of a child ineligible to be included as a member of the assistance unit shall be considered as follows:

(a) If the child is ineligible due to noncooperation with the work incentive or employment and training programs, or with child support enforcement if the child is a minor parent, such child's income shall be considered available to meet the need of the assistance unit to the extent it exceeds a one-person payment level;

(b) If the child is ineligible due to any other factor of eligibility, none of the child's income shall be considered available to meet the need of the assistance unit.

(3) A stepchild may receive income as specified in subsection (2) of this section. According to WAC 388-

24-050(3), when the assistance unit does not include a stepchild's sibling or half-sibling, the family shall have the option to:

(a) Include the stepchild as a member of the assistance unit with all of the stepchild's income considered as available to the assistance unit; or

(b) Exclude the stepchild from the assistance unit, with none of the stepchild's income considered as available to the assistance unit.

(4) If the income of an ineligible child or stepchild, including a stepchild excluded from the assistance unit as specified in subsection (3) of this section, contains a portion for such child's caretaker relative, that portion shall be considered as available to the assistance unit. [Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-535, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-535, filed 1/30/85; 83-23-058 (Order 2049), § 388-28-535, filed 11/16/83; 83-04-033 (Order 1940), § 388-28-535, filed 1/28/83, effective 3/1/83; 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 388-28-560 Net cash income--Income for support of legal dependents. The income of a parent or stepparent in the assistance unit shall be allocated in the following order:

(1) To pay court or administratively ordered support for any legal dependent or dependents not living in his or her home. Such support is exempt up to the amount of the one-person continuing assistance need standard for each legal dependent. Verification must be obtained that the support payments are being made.

(2) To meet the requirements of those needy members of the family who are not eligible for AFDC and for whom the parent or stepparent is legally responsible. Such requirements shall be computed according to appropriate payment level.

(3) To meet the needs of members of the AFDC assistance unit for whom he or she is legally responsible. [Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-560, filed 8/30/85; 83-04-033 (Order 1940), § 388-28-560, filed 1/28/83, effective 3/1/83; Order 1253, § 388-28-560, filed 12/1/77; Order 1021, § 388-28-560, filed 4/29/75; Order 445, § 388-28-560, filed 4/28/70; Regulation 8.847, filed 12/31/65, effective 2/1/66; Regulation 8.847, filed 1/24/64.]

WAC 388-28-570 Net cash income—Exempt earned income. (1) For rules on exempting earned income of a full- or part-time student, 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 in-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. Earned income also includes earnings over a period of time for which settlement is made at one time, for example, sale of farm crops, livestock, or poultry. Income from rentals is earned income, provided the individual has managerial responsibility for the rental property.

(3) For an AFDC recipient, earned income includes earnings under Title I of the Elementary and Secondary Education Act, all earnings received under the Economic Opportunity Act, wages from WIN on-the-job training, and wages paid under the Job Training Partnership Act (JTPA). See WAC 388-28-535(2) for treatment of a child excluded from the grant.

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

(a) Returns from capital investment with respect to which the individual is not himself or herself 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 incentive payments, and training-related expenses derived from WIN institutional or work experience training.

(d) Income received under the Job Training Partnership Act for training allowances, payments for support services, etc.

(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 the exemption 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) Seventy-five dollars for work expenses, regardless of the number of hours worked per month.

(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. The amount paid must be verified by the provider. The expense must have been paid from the declared earnings to be allowed as a deduction.

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

(b) The following shall be disregarded sequentially from the combined gross earned income of nonstudent dependent children and adults included in the AFDC assistance unit.

(i) For individuals found otherwise eligible to receive assistance or having received assistance in one of the four prior months, thirty dollars and one-third of the remainder not already disregarded. The thirty dollars and one-third disregard shall be applied for a maximum of four consecutive months; it cannot be applied again until he or she has been a nonrecipient for twelve consecutive months.

(ii) After expiration of the disregard in subsection (6)(b)(i) of this section, thirty dollars shall be disregarded for a maximum of eight consecutive months, whether or not the recipient has earnings or is receiving assistance; it cannot be applied again until he or she has been a nonrecipient for twelve consecutive months. This provision is effective November 1, 1984.

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

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

(ii) Refused without good cause to accept employment in which he or she 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

(d) The exemption and deductions in subsection (6)(a) and (b) of this section will not be for any month the recipient failed without good cause as determined by the CSO, to report earnings to the department on or before the eighteenth day of the month following the month in which the income was received, or by the first following work day if the eighteenth day of the month falls on a weekend or holiday. Under these circumstances, the thirty-dollar and one-third exemption shall be counted in the applicable time limits. Any circumstance beyond the control of the recipient shall constitute good cause.

(e) If a recipient requests termination in order to break the consecutiveness of the applicable time limits for the thirty-dollar plus one-third exemption, and would have been eligible, the months of voluntary non-receipt of assistance shall be counted toward the applicable time limits.

(f) If a recipient quits work without good cause, the thirty-dollar and one-third exemption shall be deemed

to have been received and shall be counted toward the applicable time limits.

(g) Months in which the applicant/recipient received the thirty-dollar and one-third exemption in another state shall not apply toward the applicable time limits.

(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 a labor dispute;

(f) Adequate child care is not available to the AFDC household. [Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-570, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-570, filed 1/30/85; 83-23-058 (Order 2049), § 388-28-570, filed 11/16/83; 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 P.L. 92-254 to members of the Blackfoot Tribe of the Blackfoot 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 P.L. 93-134 or section 6 of P.L. 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) Retroactive AFDC benefits resulting from a court order modifying a department policy.

(h) 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.

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

(j) The first fifty dollars per month of the current monthly support obligation of any child support collected on the family's behalf or received by the family.

(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 P.L. 93-113, the Domestic Volunteer Service Act of 1973.

(d) Any compensation provided volunteers in ACTION programs established by Title I of P.L. 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. 85-18-042 (Order 2276), § 388-28-575, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-575, filed 1/30/85; 83-23-058 (Order 2049), § 388-28-575, filed 11/16/83; 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 388-28-590 Alien sponsorship--Deeming of income and resources--Overpayments. (1) The following rules shall apply to an alien applying for AFDC for the first time after September 30, 1981, and to his or her sponsor.

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

(3) Any alien whose sponsor is a public or private agency or organization is ineligible for assistance for three years from the date of entry into the United States, unless the agency or organization is either no longer in existence or has become unable to meet the alien's needs.

(4) For a period of three years following entry into the United States, an individually 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.

(5) For all subsections in this section, the income and resources of an individual 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.

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

(a) The sponsor's total monthly unearned income, added to the sponsor's total monthly earned income reduced by twenty percent (not to exceed one hundred seventy-five dollars) of the total of any amounts received by the sponsor in the month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred in producing self-employment income in the month.

(b) The amount described in subsection (6)(a) of this section 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 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 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.

(7) 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 or her state of residence, less one thousand five hundred dollars.

(8) 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.

(9) 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.

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

(a) Meets the definition of refugee in WAC 388-55-010; or

(b) Is the dependent child of the sponsor or sponsor's spouse.

(11) 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. 85-03-068 (Order 2189), § 388-28-590, filed 1/17/85; 83-04-060 (Order 1942), § 388-28-590, filed 2/2/83; 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

388-29-001	Definitions.
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388-29-010	Standards of assistance.
388-29-020	Standards of assistance—Family relationships.
388-29-025	Repealed.
388-29-030	Repealed.
388-29-040	Repealed.
388-29-080	Standards of assistance—Basic requirements.
388-29-100	Standards of assistance—Basic requirements.
388-29-110	Standards of assistance—Grant maximums.
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388-29-125	Standards of assistance—Persons in medical institutions.
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388-29-135	Repealed.
388-29-145	Standards of assistance—AFDC—Child in need of specialized education or training.
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388-29-160	Additional requirements—Restaurant meals.
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388-29-200	Additional requirements—Food for guide dog.
388-29-210	Additional requirements—Telephone.
388-29-220	Additional requirements—Laundry.
388-29-230	Additional requirements—Winterizing homes—AFDC.
388-29-260	Standards of assistance—Persons in boarding homes—General assistance.
388-29-270	Additional requirements for emergent situations—AFDC.

- 388-29-280 Standards of assistance—Adult family home care.
 388-29-290 Repealed.
 388-29-295 Standards of assistance—Supplemental security income (SSI) program.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-29-025 Limitations on requirements. [Order 1241, § 388-29-025, filed 9/23/77.] Repealed by 85-07-020 (Order 2215), filed 3/13/85. Statutory Authority: RCW 74.08.090.
- 388-29-030 Assistance unit—Supplemental security income beneficiary excluded. [Order 1241, § 388-29-030, filed 9/23/77.] Repealed by 85-07-020 (Order 2215), filed 3/13/85. Statutory Authority: RCW 74.08.090.
- 388-29-040 Housekeeper. [Order 1241, § 388-29-040, filed 9/23/77.] Repealed by 85-07-020 (Order 2215), filed 3/13/85. Statutory Authority: RCW 74.08.090.
- 388-29-135 Cost standards for requirements—Maternity home care. [Statutory Authority: RCW 74.08.090. 83-17-070 (Order 2008), § 388-29-135, filed 8/19/83; 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.] Repealed by 85-07-020 (Order 2215), filed 3/13/85. Statutory Authority: RCW 74.08.090.
- 388-29-290 Low-income home energy assistance allowance. [Statutory Authority: RCW 43.20A.550. 85-04-020 (Order 2196), § 388-29-290, filed 1/30/85; 84-02-050 (Order 2058), § 388-29-290, filed 1/4/84. 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.] Repealed by 85-24-051 (Order 2309), filed 12/2/85. Statutory Authority: RCW 74.08.090.

WAC 388-29-001 Definitions. (1) "Assistance unit" means a person or members of a family eligible to be included in a single categorical grant.

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

(3) "Boarding home" means any place where one or more persons purchases their food, shelter, and household maintenance requirements from a single vendor.

(4) "Consolidated standards of need" means combining individual requirement amounts into a single dollar value.

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

(6) "Life estate" means the right to use property for the duration of a specific person's life time.

(7) "Living in own home" means a living arrangement not involving boarding and rooming or care in a hospital, nursing home, or another institution.

(8) "Maximum" means no incremental increase in the payment standard for additional members of an assistance unit beyond a designated size.

(9) "Medical institution" means an institution where professional personnel provide medical, nursing, or convalescent care.

(10) "Need" means the difference between the payment standard and the applicant's or recipient's available income, if any.

(11) "Payment standard" means the amount to which the applicant's or recipient's available income and resources are compared in determining financial eligibility.

(12) "Rateable reduction" means the percentage difference between the need standard and the payment standard.

(13) "Requirement" means an item or service recognized by the department as essential to the welfare of an individual.

(a) "Additional requirement" means a requirement which is essential to some clients under specified conditions.

(b) "Basic requirements" means food, clothing, shelter, transportation, household maintenance, personal maintenance, and necessary incidentals.

(14) "Standards of need" or "need standard" means the income required by an applicant or recipient to maintain a minimum and adequate level of living.

(15) "Supplied shelter" or "shared living" means housing is furnished to the applicant or recipient without cost or work on their part. [Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-001, filed 3/13/85.]

WAC 388-29-005 Fair hearing. An applicant or recipient aggrieved by a decision made by the department and based upon the rules in this chapter can request a fair hearing as provided for in chapter 388-08 WAC. [Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-005, filed 3/13/85.]

WAC 388-29-010 Standards of assistance. (See RCW 74.04.770)

(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 or she 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 requires that the secretary establish consolidated standards of assistance each fiscal year.

(4) 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 grant maximums and rateable reductions.

(6) The amount of the grant which is given is the difference between the dollar value of the monthly payment 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. 85-07-020 (Order 2215), § 388-29-010, filed 3/13/85; 83-11-010 (Order 1961), § 388-29-010, filed 5/9/83; 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 388-29-020 Standards of assistance--Family relationships. (1) The law specifies who is eligible to receive assistance in his or her own right. The law does not always specify, except in general terms, which other persons may be included in the grant made to the primary person. The department, therefore, defines those who in addition to the primary person may have their requirements computed with the requirements of the primary applicant. Such family groupings are called "assistance units." The persons whose needs are included in the need of the primary applicant are those for whose support the applicant is legally responsible.

(2) If an individual is receiving benefits under Title XVI of the Social Security Act, such individual shall not be regarded as a member of a family or assistance unit for purposes of determining eligibility and amount of an aid to families with dependent children grant. [Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-020, filed 3/13/85; Order 1241, § 388-29-020, filed 9/23/77.]

WAC 388-29-025 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-29-030 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-29-040 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-29-080 Standards of assistance--Basic requirements. (1) The standards for basic requirements apply to a person in his or her own home.

(2) The standards for additional requirements apply to persons with circumstances specified in this chapter.

(3) Individuals eligible for an AFDC or general assistance grant shall be provided the basic requirements.

(4) The monthly payment standard and maximums thereto, if in effect, are based upon the number of recipients in the assistance unit.

(5) 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.

(6) 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. [Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-080, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-080, filed 6/18/84; 83-11-010 (Order 1961), § 388-29-080, filed 5/9/83; 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 Standards of assistance--Basic requirements. (1) The state-wide monthly need standards for basic requirements are:

(a) Household with shelter costs effective July 1, 1985.

Households residing in a lower income housing project assisted under the United States Housing Act of 1937 or Section 236 of the National Housing Act shall be treated as renters if they make any utility payment in lieu of a rental payment.

Recipients in Household	Need Standard
1	\$ 497
2	628
3	777
4	914
5	1,053
6	1,195
7	1,381
8	1,528
9	1,678
10 or more	1,823

(b) Household with supplied shelter effective January 1, 1986.

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

Recipients in Household	Need Standard
1	\$ 187
2	271
3	359
4	446
5	534
6	622
7	709
8	797
9	884
10 or more	966

(2) One hundred eighty-five percent of the state-wide monthly need standard for basic requirements is:

(a) Household with shelter costs effective July 1, 1985.

Recipients in Household	185% of Need Standard
1	\$ 919
2	1,162
3	1,437
4	1,691
5	1,948
6	2,211
7	2,555

Recipients in Household	185% of Need Standard
8	2,827
9	3,104
10 or more	3,373

(b) Household with supplied shelter effective January 1, 1986.

Recipients in Household	185% of Need Standard
1	\$ 346
2	501
3	664
4	825
5	988
6	1,151
7	1,312
8	1,474
9	1,635
10 or more	1,787

(3) Effective January 1, 1986, the state-wide monthly payment standard shall be:

(a) Payment standards for households with shelter costs reflecting a ratable reduction of 36.8 percent of need standards.

Households residing in a lower income housing project assisted under the United States Housing Act of 1937 or Section 236 of the National Housing Act shall be treated as renters if they make any utility payment in lieu of a rental payment.

Recipients in Household	Payment Standard
1	\$ 314
2	397
3	492
4	578
5	666
6	756
7	873
8	966
9	1,061
10 or more	1,153

(b) Payment standards for households with supplied shelter reflecting the need standard.

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

Recipients in Household	Payment Standard
1	\$ 187
2	271

Recipients in Household	Payment Standard
3	359
4	446
5	534
6	622
7	709
8	797
9	884
10 or more	966

[Statutory Authority: RCW 74.08.090. 85-24-051 (Order 2309), § 388-29-100, filed 12/2/85; 85-16-049 (Order 2265), § 388-29-100, filed 7/31/85; 85-07-020 (Order 2215), § 388-29-100, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-100, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-100, filed 8/19/83; 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 Standards of assistance—Grant maximums. (1) Grants to families of eight or more shall not exceed the following maximums. In computing the grant amount, nonexempt income (and resources; general assistance only) available to meet need shall be deducted from the monthly payment standard specified in this chapter.

(2) Effective January 1, 1986, the maximum is:

Number in household	Maximum
8 or more	\$ 966

[Statutory Authority: RCW 74.08.090. 85-24-051 (Order 2309), § 388-29-110, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-110, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-110, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-110, filed 8/19/83; 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 Standards of assistance—Consolidated emergency assistance program (CEAP). 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.

(1) Maximum grant.

Recipients in Household	Maximum Grant
1	\$ 314
2	397
3	492
4	578
5	666
6	756
7	873
8 or more	966

(2) Payment maximums for individual emergent need items.

	1	2	3	4	5	6	7	8 (or more)
Food	\$171	\$216	\$268	\$315	\$363	\$412	\$476	\$526
Shelter	201	242	300	352	406	460	531	588
Clothing	23	28	35	41	47	54	62	69
Minor								
Medical	132	167	207	243	280	317	367	406
Utilities	44	57	70	82	95	108	125	138
Household Maint.	56	71	88	103	118	135	156	172

Job-related transportation -- as needed not to exceed the grant maximum. Transportation of a child to home -- as needed not to exceed the grant maximum.

(3) These standards are effective January 1, 1986. [Statutory Authority: RCW 74.08.090. 85-24-051 (Order 2309), § 388-29-112, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-112, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-112, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-112, filed 8/19/83; 83-11-010 (Order 1961), § 388-29-112, filed 5/9/83; 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 388-29-125 Standards of assistance--Persons in medical institutions. Effective July 1, 1984, the monthly standard for clothing, personal maintenance, and necessary incidentals for an eligible person in a skilled nursing home, a public nursing home, a general or tuberculosis hospital, or an intermediate care facility shall be thirty-five dollars and fifty-five cents. [Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-125, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-125, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-125, filed 8/19/83; 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 Standards of assistance--Persons in congregate care facilities. (1) The standard for congregate care shall be the rate established and published by the department for payment to specific congregate care facilities which contract with the department to provide a specific level of care.

(2) The monthly standard for clothing, personal maintenance, and necessary incidentals for a person in a

congregate care facility shall be thirty-six dollars and sixty-two cents effective January 1, 1986. [Statutory Authority: RCW 74.08.090. 85-24-051 (Order 2309), § 388-29-130, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-130, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-130, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-130, filed 8/19/83; 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-29-145 Standards of assistance--AFDC--Child in need of specialized education or training. (1) A child attending school under temporary absence provisions according to chapter 388-24 WAC is eligible for clothing, personal maintenance, and necessary incidentals only.

(2) Effective January 1, 1986, the monthly standard shall be thirty-six dollars and sixty-two cents.

(3) The child shall not be included as a member of the household in computing the requirements for the household. [Statutory Authority: RCW 74.08.090. 85-24-051 (Order 2309), § 388-29-145, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-145, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-145, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-145, filed 8/19/83; 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 388-29-146 Standards of assistance--Foster care. (1) The monthly standard for a foster care child under twelve is thirty-nine dollars and five cents.

(2) The monthly standard for a foster care child twelve and over is forty-two dollars and ninety cents.

(3) These standards are effective July 1, 1984. [Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-146, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-146, filed 6/18/84.]

WAC 388-29-150 Standards of assistance--Additional requirements. (1) Additional requirements are provided under the circumstances and limitations specified in this chapter.

(2) The department's standards provide for certain additional requirements when the individual's circumstances are such that the item is essential in accordance with the established criteria. The need of these items must be verified in each case where any are included. When the requirement is ongoing, it is added to the basic requirements of the assistance unit.

(3) The circumstances which give rise to an additional requirement may regularly recur or be nonrecurring depending on the nature of the item. In determining whether an additional requirement exists, the total case situation shall be taken into account, i.e., the changes

which have occurred in health or living conditions and, if the problem is not new, how it was met in the past.

(4) A plan for periodically reviewing the necessity for continuing the allowance for an ongoing additional requirement shall be established in each case, taking into account the change in the individual's living arrangements, health, and any other factor which has a bearing on the need for the item.

(5) The need for any ongoing additional requirement must be reestablished as often as the case plan indicates, but at least semiannually, except where it is established there is a continuing need that is likely not subject to change. [Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-150, filed 3/13/85; 78-12-001 (Order 1355), § 388-29-150, filed 11/3/78; Order 1241, § 388-29-150, filed 9/23/77.]

WAC 388-29-160 Additional requirements--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) Effective January 1, 1986, the monthly standard for restaurant meals shall be one hundred sixty-eight dollars. [Statutory Authority: RCW 74.08.090. 85-24-051 (Order 2309), § 388-29-160, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-160, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-160, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-160, filed 8/19/83; 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 388-29-180 Additional requirements--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) Criteria used to authorize the service are as follows:

(a) The recipient requires help in preparation of some 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 available, feasible, or is costlier for the recipient.

(3) When a plan for use of this service is approved, the monthly standard shall be established by the department. [Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-180, filed 3/13/85; 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 388-29-200 Additional requirements--Food for guide dog. (1) The cost of food for a guide dog shall be an additional requirement when an applicant or recipient has a guide dog assigned to him or her by an accredited guide dog organization.

(2) Effective January 1, 1986, the monthly standard for food for a guide dog shall be thirty-three dollars. [Statutory Authority: RCW 74.08.090. 85-24-051 (Order 2309), § 388-29-200, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-200, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-200, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-200, filed 8/19/83; 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 388-29-210 Additional requirements--Telephone. (1) Telephone service is an additional requirement only when the lack of a telephone would endanger life or make a more expensive type of care necessary. Telephone service is not allowed when the function of a telephone can be performed by other means, including the help of neighbors, relatives, or other community service.

(2) The monthly standard for telephone is the minimum residential rate available in the area for the service. [Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-210, filed 3/13/85; Order 1241, § 388-29-210, filed 9/23/77.]

WAC 388-29-220 Additional requirements--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) Effective January 1, 1986, the monthly standard for laundry shall be ten dollars. [Statutory Authority: RCW 74.08.090. 85-24-051 (Order 2309), § 388-29-220, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-220, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-220, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-220, filed 8/19/83; 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 Additional requirements--Winterizing homes--AFDC. (1) Repairs to homes owned or being purchased by AFDC recipients 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 subsection (1)(a) through (d) of this section.

(2) All expenditures for repairs shall be paid by vendor payments when there is sufficient recorded evidence that the home repair was performed.

(3) The maximum allowance for winterizing a home is five hundred dollars. [Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-230, filed 3/13/85; 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 Standards of assistance--Persons in boarding homes--General assistance. (1) The monthly standard for board and room shall be two hundred twenty-five dollars and six cents or seven dollars and forty-two cents per day.

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

(3) These standards are effective January 1, 1986. [Statutory Authority: RCW 74.08.090. 85-24-051 (Order 2309), § 388-29-260, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-260, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-260, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-260, filed 8/19/83; 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 requirements shall be allowed in the following emergent situations in which, for good cause, a recipient does not have adequate funds to:

(a) 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) Prevent imminent eviction, where a formal notice of eviction or notice to pay or vacate has been received, and only in an amount needed to prevent the eviction or to secure new housing;

(c) Correct a sudden malfunction resulting in loss of heat, water, electricity, or cooking facilities and the recipient is legally responsible for the repairs and winterization funds are not available; limited to actual costs of repairs or replacement when there is no other alternative;

(d) Obtain new housing when the premises contains a verifiable material defect jeopardizing the occupant's health and safety and the landlord or owner fails or refuses to correct the defect within the time allowed by law.

(e) Prevent an impending utility shutoff when a notice of impending shutoff has been received or it is otherwise verified by the CSO that the applicant or recipient is without necessary fuel for heating or cooking and only in the amount to meet the emergent need;

(f) Obtain new housing for needs caused by an abusive spouse. Payments will be limited to:

(i) Established fees paid to shelters especially for abused spouses, or

(ii) The amount necessary to obtain new housing.

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

(h) Obtain food, when no other resource is available.

(2) For the purposes of this section, good cause means the emergent situation did not occur as a result of deliberate neglect by the applicant or recipient. Good cause may be established when the department determines funds ordinarily available to meet need are no longer available because of:

(a) Stolen proceeds from cashed warrants.

(b) Payment for necessities for:

(i) Medical bills;

(ii) Child care in an emergency;

(iii) Avoiding abuse;

(iv) Dental care for alleviation of pain or to obtain employment;

(v) Needs identified in subsections (1)(a) through (h) of this section; provided the actions of the applicant or recipient were reasonable under the circumstances. A recipient will be presumed to have acted reasonably when the amount expended for necessities does not exceed the amount specified in WAC 388-29-112. Other cases shall be determined on a case-by-case basis. If the amount in WAC 388-29-112 is exceeded, the department will make a judgment regarding reasonability.

(3) In no instance 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. [Statutory Authority: RCW 74.08.090. 85-20-022 (Order 2284), § 388-29-270, filed 9/23/85; 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 Standards of assistance--Adult family home care. (1) The basic monthly standard for adult family home care shall be three hundred fifty-four dollars and fifty-five cents.

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

(3) Activities of daily living add-ons

(a) 1-3 activities..... \$36.58

(b) 4-7 activities..... \$54.85

- (c) 8-12 activities..... \$79.23
- (4) Health-related services,
maximum of nine.....each.. \$24.38
- (5) Respite care..... \$11.57.
- (6) These standards are effective July 1, 1984.

[Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-280, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-280, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-280, filed 8/19/83; 82-17-066 (Order 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-29-295 Standards of assistance--Supplemental security income (SSI) program. Effective January 1, 1986, standards of SSI assistance paid to eligible individuals and couples are:

	Standard	Federal Benefit	State Supplement
Area I			
Living alone			
Individuals	\$364.00	\$336.00	\$ 28.00
Couples			
Both eligible	526.00	504.00	22.00
With essential person	526.00	504.00	22.00
With ineligible spouse	526.00	336.00	190.00
Area II			
Living alone			
Individuals	343.55	336.00	7.55
Couples			
Both eligible	504.00	504.00	0
With essential person	504.00	504.00	0
With ineligible spouse	496.15	336.00	160.15
Shared living			
Individuals	229.81	224.00	5.81
Couples			
Both eligible	342.30	336.00	6.30
With essential person	342.30	336.00	6.30
With ineligible spouse	342.30	224.00	118.30

[Statutory Authority: RCW 74.08.090. 86-01-007 (Order 2311), § 388-29-295, filed 12/5/85; 85-07-020 (Order 2215), § 388-29-295, filed 3/13/85; 84-09-073 (Order 2095), § 388-29-295, filed 4/18/84; 83-17-070 (Order 2008), § 388-29-295, filed 8/19/83; 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

- 388-33-080 Grant authorization, reauthorization, and computation--Authorizing documents.
- 388-33-085 Grant authorization, reauthorization, and computation--Local office function.
- 388-33-135 Effective date of change in eligibility.
- 388-33-140 Effective date of increase or decrease in grant.
- 388-33-195 Effective date of grant--Underpayment.
- 388-33-355 Suspension of grant.
- 388-33-385 Notification of suspension or termination or reduction of grant--Dispensation of advance notice.
- 388-33-450 Protective payment--Employment or work incentive program refused without good cause.
- 388-33-453 Protective payment--Failure or refusal to cooperate with support enforcement.
- 388-33-576 Loss, theft, or destruction of warrant payable to recipient.

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) Certification and computation of grant form to authorize;

(a) Initial, adjusting, and regular payment of a pre-paid 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) One-time payment authorization for one-time grant, child care payments, and vendor payments. [Statutory Authority: RCW 74.08.090. 85-15-056 (Order 2258), § 388-33-080, filed 7/17/85; 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 or her 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 certification and computation of grant form shall be signed and dated by the financial services technician preparing the grant form, 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 the eligibility of the individual or individuals listed on the form has been established and 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 or changes 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 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. 85-15-056 (Order 2258), § 388-33-085, filed 7/17/85; 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 388-33-135 Effective date of change in eligibility. (1) A change in circumstances is any change affecting eligibility and/or continued payment of the grant previously authorized.

(2) When a change in income including the receipt of a lump-sum payment causes ineligibility, the recipient is ineligible effective the first of the month of receipt. All assistance received shall be an overpayment and subject to recovery as in chapter 388-44 WAC.

(3) When a change of circumstances other than increased income renders the assistance unit or any member of the assistance unit ineligible, the effective date of ineligibility is the first of the month following the month in which the change occurred. For ineligibility of strikers, see WAC 388-24-042. [Statutory Authority: RCW 74.08.090. 85-15-056 (Order 2258), § 388-33-135, filed 7/17/85; 83-23-058 (Order 2049), § 388-33-135,

filed 11/16/83; 83-04-033 (Order 1940), § 388-33-135, filed 1/28/83, effective 3/1/83; 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 person is added to the grant, the effective date of the change shall be the date the person entered the household or the date the person is determined eligible, whichever is later.

(b) When a person's needs are added to a grant because he or she is being removed from a sanction status, the effective date of the change shall be the date the sanction is removed.

(c) When a person moves from a supplied shelter to a renting or owning situation, the effective date of the grant increase shall be the date of the change.

(d) When a person moves from an institution or congregate care facility and is otherwise eligible for a grant, the effective date of change is the date the person leaves the facility.

(e) When any other change in circumstances other than income results in an increase or reduction of the assistance grant, the effective date of the change is the first of the month following the month in which the change occurred.

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

(3) Change in grant involving a canceled warrant:

When a warrant is canceled 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 canceled 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 canceled warrant, the local office shall authorize a one-time grant.

(4) See WAC 388-28-483 for effective dates when budgeting income. [Statutory Authority: RCW 74.08.090. 85-23-018 (Order 2303), § 388-33-140, filed 11/13/85; 85-15-056 (Order 2258), § 388-33-140, filed 7/17/85; 83-23-058 (Order 2049), § 388-33-140, filed 11/16/83; 83-17-004 (Order 1994), § 388-33-140, filed 8/5/83; 83-04-033 (Order 1940), § 388-33-140, filed 1/28/83, effective 3/1/83; 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 388-33-195 Effective date of grant--Underpayment. (1) A current recipient receiving less than the

correct amount of an assistance grant or service payment due to departmental error or client error in estimating income for prospective budgeting, 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. 85-15-056 (Order 2258), § 388-33-195, filed 7/17/85; 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 or her 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 or her income is equal to or exceeds his or her grant requirements but is less than his or her 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, or

(e) A general assistance grant recipient has entered a state mental hospital; Western State Hospital, Eastern State Hospital, or PORTAL program.

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

(3) A suspended grant shall be terminated as provided in WAC 388-33-370. [Statutory Authority: RCW 74.08.090. 85-16-045 (Order 2261), § 388-33-355, filed 7/31/85; 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 388-33-385 Notification of suspension or termination or reduction of grant--Dispensation of advance notice. Advance notice of action to terminate, suspend, or reduce assistance is not required when:

(1) The local office has factual information of the death of the recipient or of the AFDC or refugee assistance payee when there is no other relative available to serve as payee.

(2) A recipient has been admitted or committed to an institution making the recipient ineligible.

(3) A recipient has been placed in skilled nursing or intermediate care or long-term hospitalization.

(4) The recipient's whereabouts are unknown and departmental mail directed to him or her has been returned by the post office indicating no known forwarding address.

(5) A recipient has been accepted for assistance in another state.

(6) An AFDC child is removed from the home as a result of a judicial determination or voluntarily placed in foster care by his or her legal guardian.

(7) Eligibility for assistance or an additional requirement is determined to exist for a specific limited period of time and the recipient has been so advised.

(8) The local office receives a clear statement from the recipient that he or she no longer wishes assistance. The local office shall immediately send adequate notice to confirm the verbal or written request for termination.

(9) The local office receives a clear statement from the recipient giving information requiring termination, suspension, or reduction of assistance. The recipient must indicate in writing that he or she understands the consequence of supplying such information. Adequate notice is required stating the adverse action. [Statutory Authority: RCW 74.08.090. 84-09-071 (Order 2093), § 388-33-385, filed 4/18/84; Order 906, § 388-33-385, filed 2/14/74.]

WAC 388-33-450 Protective payment--Employment or work incentive program refused without good cause. (1) If an individual certified to the work incentive program (WIN) has been determined to have refused without good cause to participate in the WIN program or to accept a bona fide offer of employment:

(a) Assistance to meet the requirements of other eligible members of the assistance unit will be provided in the form of protective payments under the conditions described in WAC 388-57-061; except

(b) If the department, after making reasonable efforts, is unable to locate an appropriate protective payee, assistance may be paid directly to the sanctioned individual.

(2) The department shall notify the relative payee in writing of the establishment of a protective payment as described in WAC 388-33-444.

(3) Selection of another individual as payee shall follow criteria in WAC 388-33-440 (3)(a)(b)(c).

(4) Payment to the relative payee shall promptly be resumed when notice is received from the department of employment security that the individual no longer refuses to participate in a WIN program or employment or had good cause for refusal to participate. [Statutory Authority: RCW 74.22.110. 84-22-018 (Order 2166), § 388-33-450, filed 10/31/84; Order 831, § 388-33-450, filed 7/26/73; Order 747, § 388-33-450, filed 12/7/72; Order 534, § 388-33-450, filed 3/31/71, effective 5/1/71; Order 322, § 388-33-450, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

WAC 388-33-453 Protective payment--Failure or refusal to cooperate with support enforcement. (1) If the

parent or other caretaker relative fails or refuses to cooperate with the office of support enforcement or other agencies in obtaining support payments as stipulated in WAC 388-24-108 and 388-24-109:

(a) Assistance to meet the requirements of other eligible members of the assistance unit will be provided in the form of protective payments; except

(b) If the department, after making reasonable efforts, is unable to locate an appropriate protective payee, assistance may be paid directly to the sanctioned individual.

(2) The department shall notify the relative payee in writing of the establishment of a protective payment as described in WAC 388-33-444.

(3) The selection of a protective payee shall be made in accordance with WAC 388-33-440 (3)(a)(b) and (c).

(4) The manner in which the protective payee performs will be reviewed at least every three months and the caretaker relative's circumstances will be reviewed as frequently as indicated.

(5) Payment to the relative payee shall not be resumed without written approval by the office of support enforcement stating that the individual is cooperating in obtaining support.

(6) The rules in this section as to the person selected as protective payee and manner of disbursements are not subject to a fair hearing. [Statutory Authority: RCW 74.22.110. 84-22-018 (Order 2166), § 388-33-453, filed 10/31/84; Order 1195, § 388-33-453, filed 3/3/77; Order 1054, § 388-33-453, filed 9/25/75.]

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 he or she has not received his or her warrant or his or her unendorsed warrant has been lost, stolen, or destroyed is given full consideration. The CSO shall require the recipient payee to 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) of this section, determine a course of appropriate action, inform the recipient, and record the details of the report and the decision in the financial record.

(4) After a "prompt report" of the loss, theft, destruction, or nondelivery of an unendorsed warrant, the CSO shall "promptly replace" the warrant.

(5) "Prompt report" of loss, theft, destruction, or nondelivery of a warrant shall constitute completion and submittal of appropriate written forms within sixty days of the date the warrant was due the recipient.

(6) "Prompt replacement" of a lost, stolen, nondelivered, or destroyed warrant shall be authorization of replacement on or before the tenth of the month in which the warrant was due or within five working days of the prompt report of loss, theft, nondelivery, or destruction, whichever is later.

(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; and, the department may inquire into the circumstances of the loss or nondelivery prior to authorization of a replacement warrant. In the event such inquiry results in a determination not to replace the reported warrant, the recipient shall be sent written notification which notice shall include a statement of the determination, the reason or reasons for the decision, and a statement of the recipient's right to request a fair hearing appealing the decision.

(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. If a warrant which had been reported as lost, stolen, destroyed, or nondelivered is found, delivered, or restored to the recipient prior to the issuance of a replacement, the department is not required to issue a duplicate warrant.

(9) When a recipient reports nondelivery of a public assistance warrant within six months of a prior report of nondelivery, the department shall promptly replace, verify the address, and:

(a) If there has been a change of address since the previous report or change of circumstances to better ensure receipt of public assistance warrants (e.g., a locked mailbox, post office box), the department shall continue to send warrants to the recipient's address;

(b) If there is no change in address or assurance of delivery, public assistance (including the replacement warrant) shall be redirected to the local office for pickup by the recipient for a period of six months, provided that this redirection may be waived if it is determined there is hardship or other good cause.

(10) When a recipient reports loss, theft, or destruction of an unendorsed, public assistance warrant within six months of a prior report of loss, theft, or destruction, or when a recipient who has picked up his or her public assistance warrant at the community service office pursuant to the redirect procedure in subsection (9)(b) of this section, then promptly reports such unendorsed warrant as lost, stolen, or destroyed, the community service office shall promptly replace the warrant but have the right to inquire into the circumstances and the ability of the recipient to manage public assistance funds.

(11) The state and community 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. 84-09-072 (Order 2094), § 388-33-576, filed 4/18/84; 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.]

Chapter 388-37 WAC

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

WAC

388-37-010	Continuing general assistance--Exclusions.
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388-37-180	Progressive evaluation process Step VI--Evaluation of capacity to perform past work.
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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS
CHAPTER

388-37-036	Incapacity--Functional, mental, and emotional disorders. [Statutory Authority: RCW 74.08.090. 83-08-025 (Order 1955), § 388-37-036, filed 3/30/83; 82-22-021 (Order 1894), § 388-37-036, filed 10/26/82.] Repealed by 85-15-090 (Order 2259), filed 7/24/85. Statutory Authority: RCW 74.08.090.
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WAC 388-37-010 Continuing general assistance--Exclusions. (1) Continuing general assistance is a state-financed program providing for the needs of some persons not eligible for a federal aid grant who are either pregnant or incapacitated from gainful employment. 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, except as provided in WAC 388-37-010 (2) through (5).

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

(3) Effective August 23, 1983, an SSI recipient whose need is not being met by SSI because of separation from a spouse may be eligible to receive GA-U in the amount

necessary to supplement his or her need up to the level of the existing GA-U payment standard.

(4) An SSI recipient whose SSI check has been lost, stolen, missent, or otherwise delayed, may be granted GA-U provided the recipient agrees in writing to repay the amount of GA-U assistance issued, and the applicant meets all other GA-U eligibility requirements. 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) An applicant appearing to be eligible for SSI may receive continuing general assistance payments until the date of receipt of the initial SSI payment provided that:

(a) The applicant applies;

(b) The applicant assigns the initial SSI payment to DSHS up to the amount of the GA-U provided to the applicant pending approval of the SSI application;

(c) The applicant meets all other general assistance eligibility requirements.

(6) 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 GA-U authorized during the time period these payments cover.

(b) If the amount of the initial SSI payment recovered by DSHS prior to the payment of attorney's fees in subsection (7) of this section does not meet the amount paid as GA-U, the balance must be treated as an overpayment. The period covered by any advance or presumptive payments is not included in this computation.

(c) If the SSI benefit is less than the GA-U payment standard because the SSI is based on a different living arrangement than authorized under the GA-U program, the difference will not be considered an overpayment, provided the applicant has appealed the SSI determination and lost the final appeal.

(7) Any agreement between the department and a Supplemental Security Income applicant providing for the reimbursement of interim assistance to the department shall provide, if the applicant has been represented by an attorney, that twenty-five percent of the reimbursement received shall be withheld by the department and all or such portion thereof as has been approved as a fee by the United States Department of Health and Human Services shall be released directly to the applicant's attorney. Payment is limited to cases where the reimbursement of interim assistance was received by the department on or after August 23, 1983, and the attorney of the applicant for whom reimbursement is received began representing the applicant on or after August 23, 1983. The secretary may maintain such records as are deemed appropriate to measure the cost and effectiveness of such agreements and may make recommendations concerning the continued use of such agreements to the legislature.

(8) Continuing general assistance cannot be granted to an individual eligible for or receiving AFDC or SSI when he or she:

(a) Is currently under sanction for failure to comply with AFDC or SSI requirements, or

(b) Has failed or refused to cooperate in obtaining AFDC or SSI, unless the department has determined there is good cause for failure to cooperate. [Statutory Authority: RCW 74.08.090, 85-20-086 (Order 2289), § 388-37-010, filed 10/1/85; 84-19-046 (Order 2152), § 388-37-010, filed 9/17/84; 83-21-012 (Order 2034), § 388-37-010, filed 10/6/83; 83-08-025 (Order 1955), § 388-37-010, filed 3/30/83; 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 388-37-030 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 physically, emotionally, or mentally unable to work as a result of a condition expected to continue for at least sixty days from date of application, except as provided in WAC 388-37-038 (1) through (4). Incapacity refers to the individual's capacity to earn income by employment. It does not refer to the availability or lack of job opportunities.

(a) Eligible individuals are:

(i) An incapacitated single person age eighteen or older.

(ii) A married couple if both persons are incapacitated.

(iii) 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).

(b) An incapacitated individual must accept and follow through on required available medical treatment, which can reasonably be expected to render him or her able to work, unless there is good cause for failure to do so.

The department shall make the "good cause" determination based on the criteria in WAC 388-37-037(4).

(c) An incapacitated individual may also receive medical services provided under the state-financed medical care services program as defined in WAC 388-86-120.

(2) Effective August 23, 1983, pregnant women who:

(a) Meet all income and resource eligibility criteria for the federal aid to dependent children program; and

(b) Are in their first or second trimester of pregnancy and categorically eligible for a federal aid medical assistance program; or

(c) Are members of two-parent households during a time when the aid to dependent children-employable program is in effect, but do not meet categorical eligibility for AFDC-E. These women may receive a continuing general assistance grant and medical assistance under the state-financed medical care services program for the duration of their pregnancy. [Statutory Authority: RCW 74.08.090, 85-15-090 (Order 2259), § 388-37-030, filed 7/24/85; 84-19-046 (Order 2152), § 388-37-030, filed 9/17/84; 83-21-012 (Order 2034), § 388-37-030, filed 10/6/83; 83-08-025 (Order 1955), § 388-37-030, filed 3/30/83; 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 388-37-032 Continuing general assistance—Determination of incapacity. (1) Eligibility due to incapacity shall be determined by the department in accordance with the criteria set forth in this chapter.

(2) The department 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) Require available medical treatment which can reasonably be expected to render the client able to work. The department shall provide written notification of these treatment requirements at the time of initial approval and at each redetermination.

(e) Recommend available medical services, provided under the state-financed medical care services program as defined in WAC 388-86-120.

(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) Redetermination of eligibility for general assistance due to incapacity is based on current medical evidence and other available relevant medical information.

If incapacity is not substantiated, then continued eligibility is denied.

(5) 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, 85-22-020 (Order 2297), § 388-37-032, filed 10/30/85; 84-19-046 (Order 2152), § 388-37-032, filed 9/17/84; 83-08-025 (Order 1955), § 388-37-032, filed 3/30/83; 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--Medical evidence.

(1) The term "incapacity" refers to the existence of a physiological, emotional, or mental impairment rendering 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 gainful employment.

(2) The primary source of evidence for physiological incapacity will be a written report from a physician, a certified registered nurse (CRN) in their area of certification, or the chief of medical administration, or his or her designee, of the Veterans' Administration as authorized in federal law. The primary source of evidence for a mental incapacity will be a report from a psychiatrist, licensed clinical psychologist, or mental health professional designated by the local community mental health agency as defined in RCW 71.05.020, except that a physician can evaluate a mental condition at the department's discretion. Any of the aforementioned may be used as primary sources of evidence for incapacity due to alcohol or drug addiction. When it appears an individual may have a developmental disability, such persons may be referred to a medical professional who is skilled in identifying developmental disabilities. Supplemental medical evidence may be obtained from other treating practitioners, to include a chiropractor, nurse, 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 perform work-related activities, along with relevant medical history and sufficient medical documentation to support any conclusions of incapacity.

(3) An individual's report of symptoms will not have a significant effect on an incapacity determination unless medical findings show that a medical condition is present that could reasonably be that expected to produce the symptoms which are reported. Clear, objective medical information, including professional observation and relevant medical history, used to support conclusions about the existence and persistence of the

symptom(s) and about its effect on the individual's ability to function, must be present.

(4) 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 so it can be determined whether there remains a capacity to engage in gainful employment. The primary reason for incapacity must be a medical impairment, but vocational factors, i.e., age, education, and work skills, may also be considered. Reasons for unemployment other than incapacity, such as individual employer preferences, business and economic conditions, etc., are not factors to be considered in determining his or her inability to obtain and continue in employment.

(5) When determining incapacity, the department will take into consideration opinions of the treating or consulting physicians or health care professionals regarding incapacity. Any eligibility decision which rejects uncontradicted medical opinion must set forth clear and convincing reasons for doing so.

(6) The determination of incapacity shall be made solely by the department based on the medical information received. Any decision of incapacity or unemployment made by another agency or person is not binding on the department. [Statutory Authority: RCW 74.08.090, 84-19-046 (Order 2152), § 388-37-035, filed 9/17/84; 83-21-012 (Order 2034), § 388-37-035, filed 10/6/83; 83-08-025 (Order 1955), § 388-37-035, filed 3/30/83; 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-37-037 Continuing general assistance--Refusal to accept available and required medical treatment.

(1) A continuing general assistance applicant or recipient who refuses without good cause to accept available required medical treatment, which can reasonably be expected to render him or her 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 department.

(2) "Available medical treatment" shall mean and include medical, surgical, alcoholism, drug or mental health services, or any combination thereof.

(3) "Reasonably be expected to render him or her able to work" shall mean that in the opinion of the department, the required treatment will restore or substantially improve the individual's ability to work for pay in a regular and predictable manner.

(4) Any recipient who disagrees with these treatment requirements may request a fair hearing. Once a request is initiated, the department shall take no adverse action as a result of failure to comply with the treatment at issue pending a decision.

(5) For the purposes of this section, an applicant or recipient has good cause to refuse required medical treatment when such refusal is based upon one or more of the following conditions:

(a) The individual is genuinely fearful of undergoing required 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 or she now has, and refuses to accept the risk;

(c) Because of his or her definitely stated religious scruples, the individual will not accept required medical treatment.

(d) The individual is temporarily unable to participate in required medical treatment, due to an intervening incapacity. The temporary inability to participate must be documented by medical evidence. The requirement to participate is again imposed as soon as the person is able to participate.

(e) The individual was not properly notified of the treatment required and/or the consequences for failure to comply with these requirements.

(f) The treatment required by previous written notification is subsequently determined to have been inappropriate or unavailable.

(6) Refusal to follow through with available required medical treatment without good cause shall result in termination until the person agrees to cooperate in accepting such treatment and subject to the following maximum periods of ineligibility after reapplication:

(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. 85-22-020 (Order 2297), § 388-37-037, filed 10/30/85; 84-19-046 (Order 2152), § 388-37-037, filed 9/17/84; 83-08-025 (Order 1955), § 388-37-037, filed 3/30/83; 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--Waiver of medical documentation. (1) Incapacity will be considered to be established without medical documentation 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;

(c) Is sixty-five years of age or older.

(2) Incapacity will be considered established for a period of sixty days without a psychiatric/psychological

evaluation when the person is being released from inpatient psychiatric treatment and is participating in direct treatment services to meet his or her mental health needs as described in WAC 275-56-015(17), with the exception of:

(a) Clients admitted under the Involuntary Treatment Act (ITA), who are subsequently released without participating in direct treatment services;

(b) Clients voluntarily admitted to a psychiatric hospital or the psychiatric ward of a general hospital for evaluation and diagnosis only, who are released without participating in direct treatment services;

(c) Clients voluntarily admitted to a psychiatric hospital or the psychiatric ward of a general hospital for an acute, short-term episode, who are released without participating in direct treatment services; and

(d) Clients who leave ongoing inpatient psychiatric treatment against medical advice.

(3) Incapacity due to alcoholism will be considered to be established when an individual is admitted as a resident of a licensed alcoholism treatment facility, including intensive inpatient treatment or treatment at a recovery house or extended care recovery house 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 criteria, in subsection (4) of this section 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 subsection (4)(a) of this section without documented medical evidence of incapacity. [Statutory Authority: RCW 74.08.090. 84-19-046 (Order 2152), § 388-37-038, filed 9/17/84; 83-08-025 (Order 1955), § 388-37-038, filed 3/30/83; 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 department.

(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 department.

(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. 84-19-046 (Order 2152), § 388-37-040, filed 9/17/84; 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) Before a recipient of GAU can be determined ineligible on the basis that he or she is no longer incapacitated, at least one of the following conditions must be met:

(a) New evidence must show a clear improvement in the medical condition. Clear improvement means that, since the last decision, the physical or mental impairment(s) upon which the decision was based has decreased in severity; or the effect of that impairment has been significantly diminished (through therapy, medication, rehabilitation, etc.) to the point where the individual is capable of gainful employment.

(b) It can be established that the previous decision was based on faulty or insufficient information or erroneous procedure based on the WAC in effect at the time.

(3) Whenever a general assistance recipient becomes eligible for AFDC or SSI benefits, he or she becomes ineligible for continuing general assistance.

(4) Acceptance of available medical treatment. WAC 388-37-030 and 388-37-037 apply 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. A recipient who has been referred and refuses,

without good cause to accept referral to other agencies shall be ineligible. Refusal to accept referral to other agencies without good cause shall result in termination until the person agrees to cooperate in accepting such referral and subject to the following periods of ineligibility after reapplication:

(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. 84-19-046 (Order 2152), § 388-37-050, filed 9/17/84; 83-08-025 (Order 1955), § 388-37-050, filed 3/30/83; 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 an extended care recovery house for one hundred and eighty days. This program may be extended in individual cases.

(c) Residential rehabilitative services in a recovery 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 by a qualified alcoholism counselor employed in a state approved intensive alcoholism treatment facility, halfway house, or outpatient treatment program, 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 recovery house or extended care recovery house rehabilitative services shall be considered according to the rules applicable to the program under which the benefits are received. [Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-060, filed 7/24/85; 84-19-046 (Order 2152), § 388-37-060, filed 9/17/84; 83-08-025 (Order 1955), § 388-37-060, filed 3/30/83. 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.]

WAC 388-37-100 Progressive evaluation process.

(1) Unless medical documentation requirements are waived by WAC 388-37-038, the department will determine the existence, severity, and duration of incapacity for the general assistance-unemployable (GAU) program using a step-by-step evaluation process. Each

step of the process will be applied sequentially, until a decision to approve or deny has been made. This process will be hereinafter referred to as the progressive evaluation process (PEP).

(2) There are seven steps to the progressive evaluation process. Each individual will be evaluated using the same sequence of steps as set forth in WAC 388-37-110 through 388-37-190 and using as many steps as necessary to reach a decision as to whether or not incapacity exists.

(a) Step I involves a review of the medical evidence received to ensure the requirements are met in accordance with WAC 388-37-035.

(b) Step II is used to assign an overall mental severity rating.

(c) Step III is used to assign physical severity ratings.

(d) Step IV assigns one overall severity rating for each individual when a combination of impairments exists.

(e) Step V is used to determine the present mental and/or physical functional capacities of the individual.

(f) Step VI reviews the possibility that the individual can still do some type of relevant past work.

(g) Step VII assesses the ability of the individual to perform other work when the individual is not capable of doing any relevant past work and is less than fifty-five years of age. [Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-100, filed 7/24/85.]

WAC 388-37-110 Determination of severity--General definitions. (1) Severity of a medical impairment is defined as the degree to which an individual is restricted in ability to perform basic work-related activities as measured on a scale from one to five.

(2) Basic work-related activities are: Sitting, standing, walking, lifting, carrying, handling, seeing, hearing, communicating, and understanding and following instructions.

(3) The five severity ratings are defined as follows:

(a) A severity rating of "01" means no impairment has been identified by clear objective medical information. The ability to engage in the basic work-related activities is not restricted.

(b) A severity rating of "02" means a mild impairment exists which would not significantly interfere with the basic work-related activities.

(c) A severity rating of "03" means a moderate impairment exists, resulting in a significant interference with one or more of the basic work-related activities.

(d) A severity rating of "04" means a marked impairment exists, resulting in a very significant restriction of the ability to perform one or more of the basic work-related activities.

(e) A severity rating of "05" means the ability to perform one or more of the basic work-related activities is absent.

(4) One overall severity rating is determined for each individual based on an assessment of the severity of each diagnosed impairment and an assessment of whether the effect of multiple impairments significantly interferes with one or more basic work-related activities.

(a) Individuals with an overall severity rating of "01" or "02" shall be considered capable of gainful employment and shall not be eligible for GAU, subject to the provisions in WAC 388-37-050(2).

(b) Individuals with an overall severity rating of "03" or "04" may or may not be incapacitated from gainful employment, depending on a further assessment of functional capacities and vocational factors.

(c) Individuals with an overall severity rating of "05" shall be considered incapacitated and eligible for GAU.

(5) All decisions to deny incapacity based on the progressive evaluation process are subject to the provisions in WAC 388-37-050(2). [Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-110, filed 7/24/85.]

WAC 388-37-115 Progressive evaluation process Step I--Review of medical documentation. The department will review medical documentation prior to making a determination of incapacity in order to insure the following requirements have been met:

(1) The medical report must contain sufficient information on which to determine incapacity per WAC 388-37-035(2). If the information received is not sufficient to determine incapacity, the department can require complete information before any incapacity decision is made.

(2) The medical report must be a written report from an authorized medical professional.

(3) The impairment(s) must be expected to last at least sixty days from the date of application.

(4) The medical report must document the existence of a potentially incapacitating condition. [Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-115, filed 7/24/85.]

WAC 388-37-120 Progressive evaluation process Step II--Severity of mental impairments. If a mental impairment is claimed, the severity rating of the mental or emotional disorder shall be determined on the basis of psychosocial and treatment history, clinical findings, results of special tests, and professionally observed symptomatology which indicate impairment of ability to perform basic work-related activities.

(1) A diagnosis of mental retardation shall be assigned a severity rating as follows:

(a) An IQ of 85 or above will be considered within normal limits and will be rated "01."

(b) An IQ of 70 to 84 will be considered as borderline intellectual functioning and will be rated "03."

(c) An IQ of 69 or below will be rated "05."

(d) When more than one IQ score (e.g., verbal and performance scores) is reported on a standardized IQ test, the severity rating will be based on the lowest of these scores.

(2) Individuals diagnosed as having organic brain damage shall be assigned a rating based on the most severe of the following three areas of impairment:

(a) Marked memory defect for recent events.

(b) Impoverished, slowed, perseverative thinking, with confusion or disorientation.

(c) Labile, shallow, or coarse affect.

(3) The severity of a functional psychotic or nonpsychotic disorder shall be based on a clinical assessment of these twelve symptoms: Depressed mood, suicidal trends, expression of anxiety or fear, expression of anger, social withdrawal, motor agitation, motor retardation, paranoid behavior, hallucinations, thought disorder, hyperactivity/elation, and physical complaints; and an overall assessment of the intensity and pervasiveness of these symptoms and their effect on ability to perform work-related activities.

(a) An individual shall be assigned a minimum rating of "03" when at least one of the above symptoms is present and one or more of the following conditions are met:

(i) A diagnosis of psychotic disorder has been made; or

(ii) The individual has been hospitalized for psychiatric reasons two or more times within the preceding two years; or

(iii) The individual has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months duration within the preceding two years; or

(iv) The individual is considered as at least moderately impaired by three or more of the symptoms listed above; or

(v) The individual is considered as at least moderately impaired in the overall assessment of intensity and pervasiveness of these symptoms.

(b) An individual shall be assigned a minimum rating of "04" when the overall assessment of the intensity and pervasiveness of these symptoms is marked, or when it is moderate and three or more of the above symptoms are present to a marked degree or more.

(c) An individual shall be assigned a rating of "05" when the overall assessment of the intensity and pervasiveness of these symptoms is severe or when it is marked and three or more of the above symptoms are present to a severe degree.

(4) When an individual is diagnosed as being impaired in more than one area (i.e., mental retardation, organic brain damage, or functional disorder), one mental rating shall be assigned based on ratings in each of the three areas according to the following:

(a) An individual with at least two moderate impairments or at least one moderate and one marked impairment is considered to have an overall mental severity rating of "04."

(b) An individual with at least two marked impairments is considered to have an overall mental severity rating of "05."

(5) Based on the overall mental severity rating a determination of incapacity may be made as follows:

(a) An individual with no significant claimed physical impairment and an overall mental severity rating of "01" or "02" is not eligible for GAU, provided the overall functioning level appears consistent with this rating.

(b) An individual with an overall mental severity rating of "05," who meets the time limits in WAC 388-37-

030(1), is eligible for GAU regardless of whether there is a significant claimed physical impairment, provided the overall functioning level appears consistent with this rating.

(c) An individual with an overall mental severity rating of "03" or "04" and no significant claimed physical impairment must be evaluated to determine how functional capacity is affected by the mental impairment.

(d) An individual with an overall mental severity rating of "01," "02," "03" or "04," who claims a significant physical impairment, must have the severity of the physical impairment evaluated, if necessary to determine incapacity. [Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-120, filed 7/24/85.]

WAC 388-37-130 Progressive evaluation process Step III--Severity of physical impairments. (1) If a physical impairment is claimed the severity rating of the physical disorder shall be determined on the basis of current medical evidence which provides an objective description of an individual's medical condition.

(2) Each diagnosed impairment shall be assigned a severity rating based on the following method:

(a) The examining physician's estimated severity rating will be used when the following three conditions are met:

(i) The doctor's rating is substantiated by and is consistent with the medical evidence provided; and

(ii) The doctor's assessment of functional capacities is consistent with the given severity rating as defined in WAC 388-37-110; and

(iii) No evidence to the contrary exists either within the same evaluation or another current evaluation on the same individual.

(b) When the doctor has not assigned a severity rating or that rating does not meet the conditions in (a) of this subsection, the department shall assign a rating based on the medical assessment of functional capacities in conjunction with the severity ratings as defined in WAC 388-37-110.

(3) Based on the severity rating of each physical impairment, a determination of incapacity will be made as follows:

(a) An individual with no physical impairment rated higher than "02" and whose overall functioning level appears consistent with the rating, shall not be eligible for GAU.

(b) An individual with a severity rating of "05" for any impairment, who meets the time limits in WAC 388-37-030(1), is eligible for GAU, provided the overall functioning level appears consistent with this rating.

(c) An individual with only one physical impairment with a severity of "03" or "04" and no significant mental impairment must be evaluated to determine how functional capacity is affected by the physical impairment.

(d) The effect of multiple significant physical impairments or a combination of significant mental and physical impairments will be determined according to WAC 388-37-140. [Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-130, filed 7/24/85.]

WAC 388-37-135 Alcoholism/drug addiction. (1) Unless otherwise exempted by WAC 388-37-038 (3) or (4), individuals claiming incapacity due to alcoholism or drug addiction will be required to provide medical evidence in accordance with WAC 388-37-035 which substantiates impaired ability to perform basic work-related activities. Supplemental evidence from a professional alcohol or drug counselor may be requested as needed to further assess the condition(s) and/or to recommend appropriate treatment.

(2) Severity of physical impairments associated with alcoholism or drug addiction shall be assessed according to WAC 388-37-130.

(3) Severity of organic brain syndrome associated with alcoholism or drug addiction shall be assessed according to WAC 388-37-120(2).

(4) Severity of functional nonpsychotic mental and emotional disorders associated with alcoholism or drug addiction shall be assessed according to WAC 388-37-120(3).

(5) Individuals found to be incapacitated due to alcoholism or drug addiction must participate in an approved alcoholism or certified drug treatment program, unless there is good cause for failure to do so. [Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-135, filed 7/24/85.]

WAC 388-37-140 Progressive evaluation process Step IV--Multiple impairments. (1) When an applicant has more than one diagnosed impairment rated "03" or "04," but none rated "05," one overall rating shall be determined as follows:

(a) Each diagnosis shall be classified according to body system based upon *International Classification of Diseases (ICD)*, 9th Revision.

(b) If all the diagnosed impairments are classified within the same body system, the overall severity rating will be equal to the highest rated impairment within that system.

(2) If more than one body system is involved (including mental disorders), the overall severity will be determined by the following, using the highest rating from each body system:

(a) An individual with at least two moderate impairments or at least one marked and one moderate impairment is considered to have an overall severity rating of "04."

(b) An individual with at least two marked impairments is considered to have an overall severity rating of "05."

(3) Based on the overall severity rating, a determination of incapacity is made as follows:

(a) An individual with an overall severity rating of "05," who meets the time limits in WAC 388-37-030(1) is eligible for GAU.

(b) Individuals with a severity rating of "03" or "04" must be evaluated to determine how their multiple physical and/or mental impairments affect their functional capacity. [Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-140, filed 7/24/85.]

WAC 388-37-150 Progressive evaluation process Step V--Functional capacities--Mental impairments. (1) Functional capacities of persons with mental impairments with an overall severity rating of "03" or "04" are evaluated in terms of two factors:

(a) Cognitive factors include the ability to understand, remember, and follow instructions; learn new tasks; exercise judgment and make decisions; and perform routine tasks without undue supervision.

(b) Social factors include ability to relate appropriately to coworkers and supervisors, interact appropriately in public contacts, tolerate the pressures of a work setting, care for self and maintain appropriate behavior in a work setting.

(2) If an individual is at least moderately impaired in his/her ability to understand, remember and follow simple instructions and is at least moderately limited in his/her ability to learn new tasks, exercise judgment, and make decisions, and perform routine tasks without undue supervision, the individual is considered eligible for GAU. If no moderate impairment exists in these areas, social factors will be assessed.

(3) If the individual can understand, remember, and follow simple one or two step instructions, but is at least moderately impaired in his/her ability to understand, remember, and follow complex three or more step instructions, and is markedly limited in his/her ability to learn new tasks, exercise judgment and make decisions, and perform routine tasks without undue supervision, the individual is considered eligible for GAU. If no marked limitation exists in these areas, social factors will be assessed.

(4) If there is no impairment or a mild impairment in the ability of the individual to understand, remember and follow both simple and complex instructions, social factors will be assessed.

(5) Responses given by the psychiatrist or mental health professional concerning the applicant's social functional limitations are assessed by the department. If a combination of significant limitations exists in the area of social functioning which preclude gainful employment, the individual is considered eligible for GAU.

(6) Individuals who are not eligible for GAU on the basis of significant impairment of functional capacities, shall have their ability to perform relevant past work evaluated according to WAC 388-37-180. [Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-150, filed 7/24/85.]

WAC 388-37-160 Progressive evaluation process Step V--Functional capacities--Physical impairments. For individuals with a physical impairment with an overall severity rating of "03" or "04," the department shall consider the effect of the physical impairment(s) on the ability to perform work-related activities. Functional capacities will be assessed on the basis of the individual's exertional, exertionally-related and nonexertional physical limitations. For any limitation to be considered, it must be substantiated by the medical evidence and directly related to the diagnosed impairment(s).

(1) Physical impairments which limit exertion are those which result in the restriction of activities such as standing, walking, lifting, and carrying. As defined in this section, occasional lifting means less than one-third of the time and frequent lifting means one-third to two-thirds of the time. Levels of exertion are divided into the following four categories:

(a) Sedentary: A person is in this category when capable of lifting ten pounds maximum or severely restricted in ability to stand and/or walk for a total of six hours in an eight-hour work day.

(b) Light: A person is in this category when capable of occasionally lifting twenty pounds maximum with frequent lifting and/or carrying of objects weighing up to ten pounds, or moderately restricted in ability to stand and/or walk for a total of six hours in an eight-hour work day.

(c) Medium: A person is in this category when capable of occasionally lifting fifty pounds maximum with frequent lifting and/or carrying of objects weighing up to twenty-five pounds and is unrestricted or mildly restricted in ability to stand and/or walk for a total of six hours in an eight-hour day.

(d) Heavy: A person is in this category when capable of occasionally lifting one hundred pounds or more, with frequent lifting and/or carrying of objects weighing up to fifty pounds, and is unrestricted in ability to stand and/or walk a total of six hours in an eight-hour work day.

(2) Physical impairments which may limit exertionally-related abilities are those which cause restrictions in mobility, agility or flexation, including balancing, handling, stooping, pulling, pushing, reaching, and sitting.

(3) Nonexertional physical limitations include any limitation not listed in subsections (1) and (2) of this section. These include, but are not limited to, sensory impairments, allergies, seizure disorders, etc., such as seeing, hearing, environmental restrictions, or ability to operate dangerous machinery.

(4) Based on an individual's physical exertional, exertionally-related and nonexertional limitations, an evaluation will be made of the individual's ability to perform relevant past work according to WAC 388-37-180. [Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-160, filed 7/24/85.]

WAC 388-37-170 Evaluation of vocational factors for Steps VI and VII. (1) The vocational factors used in evaluating incapacity are age, education, and work experience.

(2) Vocational factors are considered only when an overall severity rating of an "03" or "04" has been determined.

(3) Educational factors refer primarily to formal schooling or other training which contributes to the individual's ability to meet vocational requirements. The following classifications are used when evaluating the educational level of an individual:

(a) Illiteracy refers to the inability to read or write. An individual who is able to sign his or her name, but

cannot read or write a simple communication (e.g., instructions, inventory lists) is considered illiterate. Generally, an illiterate person has little or no formal schooling (six years or less).

(b) Limited education. Absent evidence to the contrary, a seventh grade through the eleventh grade of formal education is considered a limited education.

(c) High school education and above. Absent evidence to the contrary, these educational capacities qualify an individual for work at a semi-skilled through skilled level of job complexity. A general education equivalency degree (GED) falls into this category.

(4) Work experience.

(a) Work experience is evaluated to see if it constitutes relevant past work. Relevant past work is any work normally done for pay or profit in the past five years. To be "relevant," a job must have been done for a period long enough to show that the worker had the ability to do that type of work on an ongoing basis (i.e., at least thirty days for unskilled work; at least three months for semi-skilled work; at least six months for skilled work).

(b) Jobs held for very brief periods of time (less than thirty days), work done in a sheltered workshop or with other special considerations, and the duties of a student or housewife are not counted as relevant work experience.

(c) A job history which includes many jobs held for short periods of time, even though long enough to meet the time criteria for the skill level of the job, may or may not constitute relevant past work. Consideration must be given to the reasons for frequent job changes and the nature of the work or skill involved. [Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-170, filed 7/24/85.]

WAC 388-37-180 Progressive evaluation process Step VI--Evaluation of capacity to perform past work.

(1) Prior to considering age and educational factors, the ability of an individual to perform relevant past work will be assessed in relation to current functional capacities.

(2) All of the individual's relevant past work shall be evaluated to determine exertional and skill requirements for each job.

(a) If the individual is currently able to perform at the exertional and skill levels of one or more of his/her relevant past jobs, other cognitive, social, and/or nonexertional requirements of the job will be considered.

(b) An individual will be ineligible for GAU if he or she is still capable of performing the necessary physical and/or mental activities required of a relevant past job or other work for which he or she has recently acquired specific skills through successful completion of vocational training.

(c) An individual at least moderately impaired and age fifty-five or older who is unable to meet the physical and/or mental demands of any relevant past work, or has no relevant past work, shall be considered incapacitated and eligible for GAU.

(d) If the individual is currently unable to meet the mental and/or physical demands of any of his/her past

jobs and is under age fifty-five, he/she is evaluated for capacity to do other work. [Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-180, filed 7/24/85.]

WAC 388-37-190 Progressive evaluation process Step VII--Assessment of capacity to perform other work. (1) Individuals with a severity rating of "03" or "04" whose incapacity has not yet been determined by Step VI, shall be assessed for possible referral for an administrative review.

(2) The department shall approve GAU for individuals who have a significant physical limitation and:

- (a) Are limited to sedentary work; or
- (b) Are limited to light work, and are:
 - (i) Age fifty or older; or
 - (ii) Age thirty-five or older and cannot speak, read, or write English; or
 - (iii) Age eighteen or older, with less than a twelfth grade education and no relevant past work; or
- (c) Are limited to medium work, and are age fifty or older, with less than a twelfth grade education and no relevant past work; or
- (d) Can do heavy work and are age fifty-five or older.

(3) The department shall approve GAU for individuals who have a significant mental impairment, and:

- (a) Are age fifty or older and have at least a "moderate" limitation in the ability to relate appropriately to coworkers and supervisors and a "marked" limitation in the ability to respond appropriately to and tolerate the pressures and expectations of a normal work setting; or
- (b) Are age eighteen to fifty-four and have a "severe" limitation in the ability to respond appropriately to and tolerate the pressures and expectations of a normal work setting; or
- (c) Are age eighteen to forty-nine and have a severity rating of "04" and at least one of the twelve symptoms identified in WAC 388-37-120(3) listed as "severe" and have a "moderate" limitation in the ability to relate appropriately to coworkers and supervisors and a "marked" limitation in the ability to respond appropriately to and tolerate the pressures and expectations of a normal work setting.

(4) The department shall approve GAU for the individual who has both a significant mental and a significant physical limitation when either of those impairments meet the criteria in subsections (2) and (3) of this section, except that:

(a) The age requirement in subsection (3)(a) of this section does not apply; and

(b) The individual may have relevant past work.

(5) All individuals who do not meet the criteria under subsection (2), (3), or (4) of this section and who have either a significant mental or significant nonexertional physical impairment shall have their incapacity determined by administrative review.

(a) This review will be performed by at least two departmental designees.

(b) Criteria for this review includes, but is not limited to, an assessment of all available medical information

along with any vocational factors which may pose a barrier to employment.

(6) All individuals who do not meet the criteria under subsection (2), (3), (4), or (5) of this section are not considered incapacitated for GAU. [Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-190, filed 7/24/85.]

Chapter 388-42 WAC FUNERAL EXPENSE

WAC

388-42-020	Funeral and interment assistance—Definitions.
388-42-025	Available services.
388-42-030	General eligibility.
388-42-040	Resources.
388-42-100	Decedent's estate.
388-42-110	Interment of two or more bodies in one grave.
388-42-115	Application.
388-42-125	Fair hearing.
388-42-150	Maximum cost standards.

WAC 388-42-020 Funeral and interment assistance—Definitions. (1) "Funeral" means the proper preparation, transportation within the local service area, care, and disposition of the remains of a deceased person with needed facilities and appropriate memorial services.

(2) "Interment" means disposition of the remains of a deceased person by burial or cremation, and marking of the grave or repository of the cremated remains.

(3) "Local service area" means the state of Washington.

(4) "Mortuary services" means the services provided by the funeral director and the mortuary.

(5) "Funeral/memorial service" means a service facilitated by the funeral director to commemorate the deceased, whether held at the mortuary, in a church, or at the graveside.

(6) "Burial services" means all services related to burial and marking of a grave.

(7) "Cremation services" means all services related to cremating the remains of the deceased, disposing of the remains, and the customary memorial marking of the repository of the cremated remains. [Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-020, filed 5/22/84, effective 7/1/84; 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 388-42-025 Available services. (1) Mortuary services.

(a) Essential services shall include:

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

(ii) Preparation and care of the remains of the deceased for disposition by cremation or burial;

(iii) Preparation and filing of death certificate and permits;

(iv) A casket or container of sufficient durability to transport the remains to a crematorium or cemetery;

(v) Transportation of the remains to the crematorium or cemetery; and

(vi) Refrigeration or embalming.

(b) Funeral/memorial services shall include:

(i) Use of the funeral director's staff and facilities for a funeral/memorial service; and

(ii) Use of repose rooms, chapel, casket coach, and one car for family of the deceased.

(2) Burial services. Interment shall be by burial or cremation.

(a) Burial only shall include:

(i) Minimum grave marker;

(ii) Grave liner if required; and

(iii) Interment and recording.

(b) Burial services may include burial plot and endowment care if not previously provided or purchased.

(3) Cremation services.

(a) Cremation only shall include:

(i) Cremation; and

(ii) A container of a substantial material.

(b) Cremation and disposition shall also include:

(i) Space for disposition of the remains in a cemetery or columbarium;

(ii) Disposition of the remains; and

(iii) Minimum marker. [Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-025, filed 5/22/84, effective 7/1/84.]

WAC 388-42-030 General eligibility. (1) Pursuant to RCW 74.08.120, public assistance funds may be used to pay for the funeral expenses of a deceased person to the extent his or her estate and available resources (including resources of surviving spouse and dependent children, contributions from relatives, friends, or other sources) are not wholly sufficient to defray the funeral expenses according to department policies and standards in this chapter.

(2) 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, cremation, or other disposition of a deceased person. Such authority is vested by statute in other individuals, including the county commissioner in the case of an unclaimed body.

(3) Neither funeral, nor cemetery, nor crematorium costs shall be paid by the department when:

(a) Charges for these services exceed the maximum standards in this chapter, or

(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 bordering states which are normal trade areas of a border area of this state.

(4) All assets of the deceased are considered available for funeral expenses, except as provided for in this chapter.

(5) Payment for any funeral or interment services made by relatives, friends, or any third party shall be deducted from the department's standards.

(6) Donated flowers, music, and ministerial services shall not be deducted from department standards. However, if these services are provided by the funeral director, they are considered part of the mortuary services and their cost must be included toward the department standard.

(7) Payment for a funeral/memorial service shall be made only upon request of a relative or friend of the deceased wishing to have a funeral/memorial service and planning to attend. The funeral director and his or her representatives or associates are precluded from applying for a funeral/memorial service.

(8) Persons applying for funeral and interment assistance shall be required, except for a 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. [Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-030, filed 5/22/84, effective 7/1/84; 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 Resources. (1) The resources available for funeral expenses must be taken into consideration in determining eligibility and amount of payment.

(2) Resources available for funeral expenses may include, but are not limited to:

(a) A death benefit from the United States Veterans' Administration;

(b) Washington state workmen's compensation;

(c) A death benefit from the railroad retirement board;

(d) Life or burial insurance proceeds;

(e) Decedent's estate;

(f) Excess resources and income of a surviving spouse, surviving minor children, or surviving parents of a minor child.

(i) Resources that would be exempt if the survivors were receiving general assistance shall be excluded.

(ii) Income sufficient to meet the survivors' monthly needs according to the department's need standards shall be excluded.

(iii) The status of resources and income shall be determined according to the department's rules for the general assistance-unemployable program.

(3) Third-party death benefits shall be considered available whether paid, directly payable to, or deposited with a funeral director or any other vendor providing mortuary, burial, or cremation services.

(4) Proceeds from a prepaid plan shall be used for the purposes intended.

(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 to a surviving spouse and/or to minor children. The department, when furnishing 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) Ineligibility due to transferring property to qualify for assistance with funeral expenses shall be directed by chapter 388-28 WAC. [Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-040, filed 5/22/84, effective 7/1/84; 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 388-42-100 Decedent's estate. (1) The estate of a deceased person consists of all of his or her real and personal property. Any value in the estate of the deceased which can be readily determined shall be considered a resource available to meet the funeral expenses according to the rules in this chapter.

(2) The department claims reimbursement from any remainder in the estate after funeral expenses are paid for any prior overpayment of public assistance according to chapter 388-44 WAC.

(3) Cash or certificates of ownership found among the effects of the deceased 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.

(4) When the estate is insufficient to defray wholly the funeral expenses, the department shall:

- (a) Determine the amount available from the estate;
- (b) Allocate that amount to the vendor or vendors; and
- (c) Deduct that amount from the department's standards before authorizing payment of public assistance funds. [Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-100, filed 5/22/84, effective 7/1/84; Order 1176, § 388-42-100, filed 12/23/76; Order 538, § 388-42-100, filed 3/31/71, effective 5/1/71; Order 371, § 388-42-100, filed 8/1/69; Order 242, § 388-42-100, filed 10/20/67; Regulation 15.36, filed 12/31/65; Regulation 15.36, filed 1/24/64.]

WAC 388-42-110 Interment of two or more bodies in one grave. The department pays for 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, or
- (2) The applicant agrees to multiple interment. [Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-110, filed 5/22/84, effective 7/1/84; 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 Application. (1) Application for the payment of funeral expenses may be made by the funeral director, 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.

(2) Application for assistance with funeral expenses must be made before the funeral is held, unless for health or religious reasons the remains must be disposed of immediately. In such cases, application must be made the first working day after the funeral.

(3) For the purposes of this section, transporting the remains from the place of death to the mortuary does not constitute a funeral. Application may be made after the deceased has been transported from the place of death. [Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-115, filed 5/22/84, effective 7/1/84; 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 Fair hearing. Applicants or recipients aggrieved by a decision made by the department and based on the rules in this chapter can request a fair hearing as provided for in chapter 388-08 WAC. [Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-125, filed 5/22/84, effective 7/1/84; 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.

- (1) Mortuary services—Actual costs, but not to exceed:
 - (a) Essential services only \$ 258
 - (b) Essential services plus funeral/memorial service \$ 590
- (2) Burial services—Actual costs, but not to exceed:
 - (a) Burial only, no plot included \$ 323
 - (b) Burial with plot included, single or multiple interment \$ 373
- (3) Cremation services—Actual costs, but not to exceed:
 - (a) Cremation only \$ 153
 - (b) Cremation and disposition \$ 229
- (4) These standards include all applicable taxes.
- (5) These standards shall be effective January 1, 1986.

[Statutory Authority: RCW 74.08.090. 85-24-052 (Order 2310), § 388-42-150, filed 12/2/85; 84-11-071 (Order 2100), § 388-42-150, filed 5/22/84, effective 7/1/84; 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

388-44-125	Repayment of overpayment from current recipients.
388-44-127	Repayment of overpayment occurring prior to April 3, 1982, and resulting from department error.
388-44-145	Involuntary repayment of overpayment—Mandatory grant deduction.

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) A public assistance money grant may not be reduced to recover overpayments of medical assistance, food coupons, or food commodities.

(3) The recipient is required to pay all overpayments except where recovery is determined to be inequitable under WAC 388-44-127. A mandatory grant deduction will be used to liquidate the overpayment, except that unintentional overpayments prior to January 1, 1982 are not subject to mandatory collection from a grant.

(4) 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.

(5) Overpayments, defined in WAC 388-44-145 (3)(a), being recovered by monthly deduction not to exceed five percent of the recipient's total monthly grant payment standard shall be recovered promptly. The department will, by the end of the quarter following the quarter in which the overpayment is first identified:

(a) Recover the overpayment, or

(b) Execute a monthly recovery agreement from a current recipient's grant or income and resources, defined as follows:

(i) The recipient must see the agency-proposed agreement as defined in WAC 388-44-115(4),

(ii) The recipient must understand the options available (mandatory deductions or lump-sum payments), and

(iii) The recipient must be given an opportunity to respond to these payment options. [Statutory Authority: RCW 74.08.090. 84-21-079 (Order 2163), § 388-44-125, filed 10/18/84; 83-05-046 (Order 1947), § 388-

44-125, filed 2/16/83; 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 occurring prior to April 3, 1982, and resulting from department error. (1) Overpayments resulting from department error are debts due the state and are subject to mandatory grant deduction except as specified in WAC 388-44-125(3), or where recovery is determined to be inequitable.

(2) When an overpayment is discovered that resulted from department error and occurred prior to April 3, 1982, liability will not be imposed until it is first determined 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. 84-21-079 (Order 2163), § 388-44-127, filed 10/18/84; 83-05-046 (Order 1947), § 388-44-127, filed 2/16/83; 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 388-44-145 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 388-44-125 and 388-44-127.

(2) An intentional 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 withheld. The amount of income and resources remaining available to the assistance unit shall not be less than ninety percent of the grant payment standard defined under the state plan to a family of the same composition with no other income.

(3) After intentional overpayments are satisfied pursuant to subsection (2) of this section and the recipient still owes a debt, 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 five percent of the recipient's total monthly grant payment standard if the requirements of WAC 388-44-125(5) are satisfied or unless the recipient voluntarily requests a larger deduction in writing.

(b) 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.

(c) 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) Prior to the initial 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. 84-21-079 (Order 2163), § 388-44-145, filed 10/18/84; 83-05-046 (Order 1947), § 388-44-145, filed 2/16/83; 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.]

Chapter 388-53 WAC

DISASTER AND RELIEF PROGRAM— INDIVIDUAL AND FAMILY GRANT

WAC

388-53-010	Purpose.
388-53-020	Definitions.
388-53-030	Authorization of program.
388-53-040	Administrative procedures.
388-53-050	Eligibility for grants.
388-53-080	Organization and functions.
388-53-090	Administrative panel.
388-53-100	Appeal process—GCO reconsideration.
388-53-120	Administrative plan review.

WAC 388-53-010 Purpose. The purpose of this plan is to set forth the administrative procedures and describe the organization for implementing the individual and family grant program subsequent to a major disaster declaration by the president. The governor of Washington has designated the state department of emergency management as the responsible state coordinating agency. The department of social and health services by agreement shall administer the individual and family grant program in Washington. These rules shall be effective only upon declaration of a major disaster by the president of the United States. [Statutory Authority: RCW 38.52.030. 85-14-106 (Order 2256), § 388-53-010, filed 7/3/85; 80-04-039 (Order 1494), § 388-53-010, filed 3/20/80; Order 1104, § 388-53-010, filed 3/11/76.]

WAC 388-53-020 Definitions. (1) "Act" shall mean chapter 38.52 RCW.

(2) "Administrative panel" means a group consisting of three representatives from the department of social and health services, agreed to and approved by the GCO, determining eligibility for a grant and grant amount.

(3) "Assistance from other means" means assistance including monetary or in-kind contributions from other governmental programs, insurance, voluntary or charitable organizations, or from any sources other than those of the individual or family.

(4) "Department" shall mean the department of social and health services, or the department of emergency management, whichever applies.

(5) "Director" may mean the director of the department of emergency management or the division of income assistance, depending upon the context in which "director" is used in the rules.

(6) "Family" means a social unit comprised of husband, and wife and dependents, if any, or a head of household, as these terms are defined in the Internal Revenue Code of 1954.

(7) "Federal coordinating officer (FCO)" means the person appointed by the administrator, FEMA, to coordinate federal assistance in a major disaster.

(8) "FEMA" means the Federal Emergency Management Agency.

(9) "Grant coordinating officer (GCO)" means the director of the division of income assistance responsible for the management of the IFG program.

(10) "Individual" means a person not a member of a family as defined in subsection (6) of this section.

(11) "Major disaster" means any hurricane, tornado, storm, flood, high-water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which, in the determination of the president, causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Disaster Relief Act of 1974, above and beyond emergency services by the federal government, to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(12) "Reconsideration appeal" means the redetermination of eligibility by the GCO or his or her designee for the IFG applicant protesting the decision of the administrative panel.

(13) "Secretary" shall mean the secretary of the department of social and health services.

(14) "Serious need" means a requirement for an item or service essential to an individual or family to prevent, mitigate, or overcome a disaster-related hardship, injury, or adverse condition.

(15) "State coordinating officer (SCO)" means the individual appointed by the governor to coordinate state and local disaster assistance efforts with those of the federal government. [Statutory Authority: RCW 38.52.030, 85-14-106 (Order 2256), § 388-53-020, filed 7/3/85; 80-04-039 (Order 1494), § 388-53-020, filed 3/20/80; Order 1104, § 388-53-020, filed 3/11/76.]

WAC 388-53-030 Authorization of program. The program is authorized by P.L. 93-288 (the Disaster Relief Act of 1974) and 44 C.F.R. 205.54. Section 408 of P.L. 93-288 provides for grants to individuals and families, who as a result of a presidentially declared major disaster, are unable to meet disaster-related "necessary expenses" or "serious needs" up to five thousand dollars. Chapter 38.52 RCW places responsibility for determining eligibility standards for grants to individuals and families with the department of social and health services. [Statutory Authority: RCW 38.52.030, 85-14-106 (Order 2256), § 388-53-030, filed 7/3/85; 80-04-039 (Order 1494), § 388-53-030, filed 3/20/80; Order 1104, § 388-53-030, filed 3/11/76.]

WAC 388-53-040 Administrative procedures. The GCO shall be the governor's authorized representative for the implementation of the individual and family grant program.

(1) The state department of emergency management has been designated by the governor as the responsible state coordinating agency to administer the provisions of 44 C.F.R. 205.54. P.L. 93-288, Section 408 provides for grants to individuals and families up to five thousand dollars - seventy-five percent federal and twenty-five percent state funds.

(2) The department of social and health services as the state administrator of the IFG program shall arrange for the state share (twenty-five percent) of funding and secure the seventy-five percent federal matching.

(3) The department of social and health services shall be responsible for preparing the governor's request for an advance of the state's share of funds.

(4) The department of social and health services has been requested by the department of emergency management to administer the individual and family grant program. The department of social and health services is responsible for establishing eligibility standards for applicants for assistance under the grant program.

(5) The department of social and health services shall receive the maximum allowance of three percent for administration of the program.

(6) Upon the declaration of a major disaster, the state coordinating officer, department of emergency management and the division of income assistance, department of social and health services, shall coordinate the necessary actions to place in operation the provisions and administrative policies and procedures for grants to individuals and families.

(7) The media shall be used widely to notify potential applicants of methods and procedures for application during and after the disasters; and appropriate outreach services shall be provided by the department of social and health services or welfare-related agencies, civic or church groups normally providing such service in the area.

(8) The program shall be administered in conformity with provisions of 44 C.F.R. 205.54.

(9) Eligibility criteria shall conform to Section 44 C.F.R. 205.54(d) and such requirements as the department of social and health services may require not inconsistent with the provisions in the cited sections of the C.F.R. in this subsection.

(10) The SCO shall maintain close coordination with the FCO and provide reports as may be required.

(11) The GCO shall maintain close coordination with the SCO. [Statutory Authority: RCW 38.52.030, 85-14-106 (Order 2256), § 388-53-040, filed 7/3/85; 80-04-039 (Order 1494), § 388-53-040, filed 3/20/80; Order 1104, § 388-53-040, filed 3/11/76.]

WAC 388-53-050 Eligibility for grants. (1) General. In order to qualify for a grant under this section, an individual or family representative must certify:

(a) That application has been made to other available governmental programs for assistance to meet a necessary expense or serious need and that neither the individual nor the family have been determined to be

qualified for such assistance or, for demonstrated reasons, any assistance received has not satisfied any such necessary expense or serious need.

(b) That with respect to the specific necessary expense or serious need or portion thereof for which application is made, neither the individual, nor to the best of the individual's knowledge, any member of the individual's family, has previously received or refused assistance from other means.

(c) That should the individual or family receive a grant and assistance from other means later becomes available to meet the necessary expense or serious need, the individual or family shall refund to the state that part of the grant for which financial assistance from other means has been received.

(d) That should the individual or family receive a grant, the individual or family shall be required to show proof of purchase of all items as specified in the grant award. The individual or family shall refund to the state any part of the grant not expended for those eligible items specified in the grant award.

(e) That individuals or families incurring a necessary expense or serious need in the major disaster area may be eligible for assistance under this section without regard to residency in the major disaster area or within the state where the major disaster had been declared.

(f) That individuals or families otherwise eligible for assistance under this section must obtain flood insurance, as required by 44 C.F.R. 205.54.

(g) That application must be filed within sixty days following the date on which the major disaster was declared except as follows:

(i) Applications filed after the sixty-day filing period, but within ninety days following the date on which the major disaster was declared shall be reviewed by the secretary of the department of social and health services or his or her designee to determine whether the late filing was the result of extenuating circumstances or conditions beyond the control of the individual or family. If it is determined good cause existed for late filing, the application shall be accepted. If such determination cannot be made, the application shall be rejected.

(ii) Persons submitting applications to the Small Business Administration (SBA) and later receiving notice from SBA that all or part of their verified losses cannot be covered by an SBA loan will have fifteen days following the date of the SBA notice to notify the state of their intention to apply for a grant. After the IFG program's sixty-day filing deadline, the state must consider applications filed in this manner as applications filed under extenuating circumstances (44 C.F.R. 205.54(k)(1)(ii)), since these grant applicants will have been prevented from applying for IFG assistance in a timely manner. The date the state receives its first contact from the applicant referred by SBA (by whatever means: Phone, mail, personal visit) will be the formal application date even though the applicant's signature may be obtained later.

(h) That farmers, ranchers, and persons engaged in agriculture or aquaculture qualified to apply to the Farmer's Home Administration (FHA) or the SBA,

must submit proof of the denial of such loan assistance from the FHA and/or the SBA before being considered eligible for a grant under this section. If applicants have been denied loan assistance because, in FHA's or SBA's determination, they are able to obtain necessary credit from other sources, they shall be considered ineligible for grant assistance for those items or services for which assistance may be provided by the FHA's or SBA's emergency loan program.

(2) Eligible categories. Assistance may be made available to meet necessary expenses or serious needs by providing essential items or services in the categories set forth as follows:

(a) Medical or dental.

(b) Housing. With respect to private owner-occupied primary residences (including mobile homes), grants may be authorized to:

(i) Repair, replace, rebuild;

(ii) Provide access;

(iii) Clean or make sanitary; or

(iv) Remove debris from such residences. Any debris removal shall be limited to the minimum required to remove health hazards or protect against additional damage to the residence.

(v) Provide minimum protective measures required to protect such residences against the immediate threat of damage.

(vi) Move mobile homes to prevent and/or reduce the immediate threat of damage.

(c) Personal property.

(i) Clothing.

(ii) Household items, furnishings, or appliances.

(iii) Tools, specialized or protective clothing or equipment essential to or a condition of a wage earner's employment.

(iv) Repair, clean, or sanitize, any eligible personal property item.

(v) Move and store to prevent or reduce the immediate threat of damage.

(d) Transportation.

(i) Grants may be authorized to provide transportation by public conveyance provided the requirement for this transportation was the direct result of the disaster.

(ii) Grants may be authorized to repair, replace, or provide private transportation, if the loss or requirement for this transportation was the direct result of the disaster, and transportation by public conveyance is inadequate or unavailable.

(e) Funeral expenses. Grants for funeral expenses will be based on minimum expenditures for interment or cremation.

(f) Rental accommodations to include motel, hotel, and other temporary accommodations.

(3) Ineligible categories. Assistance shall not be made available for any item or service in the following categories.

(a) Business losses, including farm businesses.

(b) Improvements or additions to real or personal property.

(c) Landscaping.

(d) Real or personal property used exclusively for recreation.

(e) Financial obligations incurred prior to the disaster.

(f) Any necessary expense or serious need or portion thereof for which assistance was available from other means but was refused by the individual or family.

(4) Other categories. Should the state determine an individual or family has an expense or need not specifically identified as eligible, the state shall provide a factual summary to the regional director, FEMA, and request a determination. [Statutory Authority: RCW 38.52.030. 85-14-106 (Order 2256), § 388-53-050, filed 7/3/85; 80-04-039 (Order 1494), § 388-53-050, filed 3/20/80; Order 1104, § 388-53-050, filed 3/11/76.]

WAC 388-53-080 Organization and functions. All state agencies charged with responsibilities under this plan will ensure compliance with 44 C.F.R. 205.54.

(1) Notifying potential applicants. The secretary of the department of social and health services shall publicize the availability of the IFG program to potential applicants by:

(a) Coordinating public information office activities with other agencies and the FCO;

(b) Providing news releases to local and state newspapers, radio and television stations;

(c) Notifying local governments, private welfare and welfare related agencies, civic and church groups; and

(d) Establishing outreach programs.

(2) Disaster assistance centers (DAC).

(a) The FEMA shall provide staff for the purpose of taking IFG registration/applications, and flood plain map reading at DACs and disaster field offices (DFO).

FEMA forms shall be used to take applications for the IFG program.

When the DFOs close, the state shall take applications and read flood plain maps at designated CSOs.

(b) The state shall provide IFG representatives at each DAC to answer applicant's questions that FEMA registrars cannot answer, to provide technical program guidance to other agency personnel, to receive IFG applications from the FEMA registrars, and to establish case files.

Applications shall be taken for sixty days following a major disaster declaration from any disaster victim desiring to apply for grant assistance. The FEMA registrar shall fully explain the scope and purpose of the program to each applicant and will ensure each applicant clearly identifies on his or her application the specific needs or expenses for which he or she is seeking assistance. It shall also be clearly explained to the applicant that any approved grant shall be used for the specific identified disaster-related serious needs or expenses.

(3) An application shall not be considered complete without the disclosure statement being signed.

(4) Verifying necessary expenses or serious needs.

(a) The state will verify IFG applications per FEMA regulations, except in the case of SBA formal declines or approved SBA loans which are less than the SBA-verified losses. In formal declines or less-than-verified loss

approvals, SBA will include in its letter to the applicant a paragraph about the availability of IFG and where, when, and how to notify the state of interest in applying.

SBA will notify the state of actions it takes in this regard by sending the state a copy of the decision letter and by furnishing a copy of the SBA loss verification form (739).

If the applicant applies to IFG, the state may use the 739 Form in lieu of making a home visit to determine what has been lost and any remaining needs. The state may also ask SBA to furnish other documents, such as proof of ownership, insurance settlement information, assistance from other programs, etc., from their case files to assist the state in its determination.

If the information available from SBA is insufficient, the state must utilize any additional methods of verification necessary, per FEMA regulations.

(b) The verifier shall categorize the serious needs and necessary expenses into eligible categories and attach the necessary documentation to the verification form. The verification form shall be attached to the application and shall become a part of the case file. [Statutory Authority: RCW 38.52.030. 85-14-106 (Order 2256), § 388-53-080, filed 7/3/85; 80-04-039 (Order 1494), § 388-53-080, filed 3/20/80; Order 1104, § 388-53-080, filed 3/11/76.]

WAC 388-53-090 Administrative panel. (1) An administrative panel will review each application and determine eligibility and grant amounts. All determinations shall be made in accordance with the eligibility criteria as described in the state plan and attachments for determining grant amounts.

(2) The administrative panel, consisting of three representatives of the department of social and health services appointed by the GCO, shall review each application and determine eligibility and grant amounts.

(3) The administrative panel shall send each applicant written notice of their determination of the applicant's eligibility and, if eligible, grant amount. [Statutory Authority: RCW 38.52.030. 85-14-106 (Order 2256), § 388-53-090, filed 7/3/85; 80-04-039 (Order 1494), § 388-53-090, filed 3/20/80; Order 1104, § 388-53-090, filed 3/11/76.]

WAC 388-53-100 Appeal process--GCO reconsideration. (1) An applicant dissatisfied with the administrative panel's determination of his or her eligibility and/or grant amount may request a reconsideration. A request for a reconsideration can be oral or in writing and must state the reasons for the appellant's dissatisfaction with the administrative panel's determination. The appellant must request reconsideration as soon as possible not to exceed fifteen days from receipt of the administrative panel's determination.

(2) When an applicant has requested a reconsideration, the GCO or designee shall examine the appellant's file and any additional information received or presented for review of the administrative panel's determination. The GCO shall make a decision affirming, modifying, or reversing the administrative panel's decision and mail

the written decision to the appellant within fifteen days of the GCO's receipt of the appeal; this period may be extended if both the appellant and the GCO agree. The decision of the GCO is final. [Statutory Authority: RCW 38.52.030. 85-14-106 (Order 2256), § 388-53-100, filed 7/3/85; 81-01-016 (Order 1575), § 388-53-100, filed 12/8/80; 80-04-039 (Order 1494), § 388-53-100, filed 3/20/80; Order 1104, § 388-53-100, filed 3/11/76.]

WAC 388-53-120 Administrative plan review. The director of the department of emergency management and the secretary of the department of social and health services shall review, in coordination with the FEMA regional director, the state administrative plan for the individual and family grant program every January to ensure compliance with state and federal laws and regulations and other FEMA program guidance. [Statutory Authority: RCW 38.52.030. 85-14-106 (Order 2256), § 388-53-120, filed 7/3/85; 80-04-039 (Order 1494), § 388-53-120, filed 3/20/80; Order 1104, § 388-53-120, filed 3/11/76.]

Chapter 388-54 WAC FOOD ASSISTANCE PROGRAMS

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-54-678	Job search requirement. [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-
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678, filed 5/20/81.] Repealed by 85-09-013 (Order 2222), filed 4/8/85. Statutory Authority: RCW 74.04.510.

388-54-829 Administrative disqualification hearing waiver. [Statutory Authority: RCW 74.04.510. 83-21-011 (Order 2032), § 388-54-829, filed 10/6/83.] Repealed by 84-20-099 (Order 2156), filed 10/3/84. Statutory Authority: RCW 74.04.510.

WAC 388-54-601 Definitions. (1) Beginning months – The first month the household is eligible for food stamp benefits and the month thereafter. The first beginning month cannot follow a month in which a household was certified eligible to receive coupons. This includes households who are found eligible but do not receive benefits due to proration.

(2) Compliance date – The last day in the process month that the community services office (CSO) will process monthly status reports.

(3) Food stamp monthly budgeting cycle – The three-month cycle consisting of the report month, process month, and the payment month.

(4) Food stamp monthly reporting – The eligibility requirement for food stamp recipients to submit a monthly report of household circumstances as specified in WAC 388-54-768(1).

(5) Payment month – The third month of the budgeting cycle. The month in which the food stamp allotment is affected by information reported on the monthly status report for the report month.

(6) Process month – The second month of the budgeting cycle. The month in which the monthly status report is to be returned by the client to the CSO.

(7) Prospective budgeting – The computation of a household's income based on income which has been received or anticipated income the household and the department are reasonably certain will be received during the month of issuance.

(8) Prospective eligibility – The determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

(9) Report month – The first month of the budgeting cycle. The month for which the recipient reports his or her circumstances.

(10) Retrospective budgeting – The computation of a household's income for a payment month based on actual income which existed in the corresponding report month of the budgeting cycle.

(11) Retrospective eligibility – The determination of eligibility based on retrospective budgeting rules and other circumstances existing in the report month. [Statutory Authority: RCW 74.04.510. 85-20-030 (Order 2286), § 388-54-601, filed 9/24/85; 84-06-015 (Order 2078), § 388-54-601, filed 2/28/84.]

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:

(a) 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;

(b) Employees of the Comptroller General's Office of the United States for audit examination authorized by any other provision of law; and

(c) Local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations. The written request shall include the identity of the individual requesting the information, his or her authority to do so, the violation being investigated, and the identity of the person on whom the information is requested.

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, the household's currently authorized representative, or a person acting in the household's behalf to review materials contained in the household's case file. However, the department may withhold confidential information, such as the names of individuals disclosing 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 administration of the program affecting the participation of the household in the program, with a fair hearing upon the household's 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. 85-11-033 (Order 2232), § 388-54-605, filed 5/15/85; 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 388-54-620 Application and participation--Interview. (1) All food stamp households shall have a face-to-face interview prior to certification or recertification. The individual interviewed may be any responsible member of the household or an authorized representative. The applicant may bring any person he or she chooses to the interview. Households shall be advised of rights and responsibilities.

(2) Except as provided in WAC 388-54-615(1), all interviews shall be conducted in the certification office unless the office visit is waived; then a home visit or telephone interview is required.

(3) Office visits can be waived if the household is unable to appoint an authorized representative and has no responsible 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, remoteness, age sixty-five or over, mental or physical handicap.

(4) The department may make a home visit only if the time of the visit is scheduled in advance with the household. [Statutory Authority: RCW 74.08.510 [74.04.510]. 84-06-014 (Order 2077), § 388-54-620, filed 2/28/84. 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 388-54-630 Application and participation--Verification. (1) Sources of verification shall be:

(a) Documentary evidence. Documentary evidence consists of a written confirmation of a household's circumstances and shall be the primary source of verification. Whenever documentary evidence cannot be obtained, the department shall use alternate sources of verifications, such as collateral contacts or home visits.

(b) Collateral contacts. A collateral contact is a verbal contact confirmation of a household's circumstances by a person outside the household. A collateral contact is the secondary source of verification (except for household size and citizenship).

(c) Home visits. Home visits shall be scheduled in advance with the household. See WAC 388-54-620(4).

(2) The household has primary responsibility for providing documentary evidence. 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 the responsibility of the household; however, the CSO may designate a collateral contact if collateral contact designated by the client is not acceptable.

(3) Mandatory verifications shall include:

(a) 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.

(b) Residency; except in unusual cases where verification of residency cannot reasonably be accomplished.

(c) Social Security number (SSN) reported for each household member. If verification of an issued SSN is not completed at initial certification it shall be completed at the time of or prior to the next recertification.

(d) Resources.

(e) Loans.

(f) Gross nonexempt income. Gross nonexempt income shall be verified for all households prior to certification (except expedited service households).

(g) Continuing shelter expenses, other than utilities, 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, or unless questionable.

(h) Utility expenses.

(i) If the household is entitled to the utility standard, heating and/or cooling costs shall be verified on a one-time basis unless the household has moved, changed its utilities, or the information is questionable.

(ii) If the household wishes to claim actual utility expenses these utility costs shall be verified.

(i) Medical care costs. Verify medical expenses that will result in a deduction including the amount of reimbursement. If reimbursement cannot be verified, certify without allowing the expense except in prospective budgeting as in WAC 388-54-745(8).

(j) Dependent care cost. Verify actual costs of care of a child or other dependent when necessary for a household member to seek, accept, or continue employment or training except in prospective budgeting as in WAC 388-54-745(8).

(k) Household size. Verify the number of individuals within a food stamp household who reside in a domicile.

(l) Household composition. Verify the number of people who customarily purchase and prepare meals together.

(4) Verification of questionable information. Verify all other factors of eligibility prior to certification if the factors are questionable and affect a household's eligibility or benefit level. Questionable factors shall include but not be limited to:

(a) Citizenship. When a household's statement that one or more of its members are U.S. citizens is questionable, the household shall be asked to provide verification.

(b) Alien status. When a household identifies that a member is not a citizen, verification of alien status is required.

(i) The alien not providing documentation of status shall be ineligible.

(ii) The household is responsible for providing documentation of alien status. The department shall not contact INS to obtain information about the alien's correct status without the alien's written consent.

(iii) The household shall be given the option of withdrawing the application or participating without the alien member.

(iv) 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.

(5) Verification at reapplication. At reapplication, a change in income or source of income, medical expenses, or actual utility expenses claimed in an amount over twenty-five dollars must be verified.

(a) All other changes may be reverified at recertification.

(b) Verifications shall be subject to the same verification procedures as apply during initial verification.

(6) For cases subject to food stamp monthly reporting, the department shall verify on a monthly basis:

(a) Gross nonexempt income;

(b) Utility expenses unless the standard utility allowance is used;

(c) Medical expenses per WAC 388-54-740(6);

(d) Alien status, Social Security number, residency, and citizenship if changed;

(e) All other questionable information. [Statutory Authority: RCW 74.04.510, 85-20-030 (Order 2286), § 388-54-630, filed 9/24/85; 83-22-002 (Order 2041), § 388-54-630, filed 10/20/83; 83-08-071 (Order 1956), § 388-54-630, filed 4/6/83; 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 388-54-660 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 alcohol 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 P.L. 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 FCA 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 FCA 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 P.L. 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 FCA 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 FCA 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.

(6) Sponsored aliens. The following provisions shall apply to those aliens for whom a sponsor has signed an affidavit of support or similar statement on or after February 1, 1983:

(a) "Sponsored alien" means those aliens lawfully admitted for permanent residence into the United States.

(b) "Sponsor" means a person who executed an affidavit or affidavits of support or similar agreement on behalf of an alien as a condition of the alien's entry or admission into the United States as a permanent resident.

(c) Portions of the gross income and the 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 a sponsored alien for three years following the alien's admission for permanent residence to the United States. The spouse's income and resources will be counted even if the sponsor and spouse were married after the signing of the agreement.

(d) The monthly income of the sponsor and sponsor's spouse deemed to be that of the alien shall be the total monthly earned and unearned income of the sponsor and the sponsor's spouse (if living with the sponsor) at the time the household containing the sponsored alien member applies or is recertified for program participation. Reduce by eighteen percent the earned income amount for that portion of income determined as earned income of the sponsor and the sponsor's spouse. Deduct the monthly gross income eligibility limit for a household equal in size to the sponsor, the sponsor's spouse, and any other person who is claimed by the sponsor or sponsor's spouse as a dependent for federal income tax purposes.

(e) If the alien has already reported gross income information on his or her sponsor due to AFDC's sponsored alien rules, that income amount may be used for food stamp program. However, allowable reductions to be applied to the total gross income of the sponsor and

the sponsor's spouse prior to attributing an income amount to the alien, shall be limited to the eighteen percent earned income amount and the food stamp program gross monthly income amount.

(f) Actual money paid to the alien by the sponsor or the sponsor's spouse will not be considered as income to the alien unless the amount paid exceeds the amount attributed to the alien. Only the amount paid that actually exceeds the amount deemed would be considered income to the alien.

(g) Resources of the sponsor and sponsor's spouse to be deemed to be that of the alien shall be the total amount of their resources as determined in accordance with WAC 388-54-695 through 388-54-720, reduced by one thousand five hundred dollars. If the alien has already reported total resource information on his or her sponsor due to AFDC's sponsored alien rules, the resource amount calculated by AFDC as the amount to be attributed to the alien may be used for food stamp program deeming purposes.

(h) The amount of income and resources deemed to be that of the sponsored alien shall be considered in determining the eligibility and benefit level of the household of which the alien is a member.

If a sponsored alien can demonstrate to the state agency's satisfaction his or her sponsor sponsors other aliens, then the income and resources deemed available shall be divided by the number of sponsored aliens applying for or participating in the program.

(i) If the alien switches sponsors during the certification period, then deemed income or resources would be recalculated based on the required information about the new sponsor as soon as possible after the information is supplied by the alien and verified by the state agency.

(j) Exempt aliens. The provisions of subsection (6) of this section do not apply to:

(i) An alien participating in the food stamp program as a member of his or her sponsor's household;

(ii) An alien sponsored by an organization or group as opposed to an individual;

(iii) An alien not required to have a sponsor under the Immigration and Nationality Act, such as, but not limited to, a refugee, a parolee, one granted asylum, and a Cuban or Haitian entrant.

(k) Sponsored alien's responsibility. The sponsored alien and his or her spouse are responsible for providing the state agency with any information or documentation necessary to determine the income and resources of the alien's sponsor and the sponsor's spouse for three years from the alien's date of entry or date of admission as a lawful permanent resident. The alien and his or her spouse shall also be responsible for demonstrating that the sponsor also sponsors other aliens, how many, and for obtaining any necessary cooperation from the sponsor.

(l) Verification. The CSO staff shall obtain from the alien or alien's spouse the following information:

(i) The income and resources of the alien's sponsor and the sponsor's spouse (if living with the sponsor) at the time of the alien's application for food stamp assistance.

(ii) The number of other aliens for whom the sponsor has signed an affidavit of support or similar agreement.

(iii) The provision of the Immigration and Nationality Act under which the alien was admitted.

(iv) The date of the alien's entry or admission as a lawful permanent resident as established by INS.

(v) The alien's date of birth, place of birth, and alien registration number.

(vi) The number of dependents for federal income tax purposes of the sponsor and the sponsor's spouse.

(vii) The name, address, and phone number of the alien's sponsor.

(m) If verification is not received on a timely basis, the sponsored alien and his or her spouse shall be ineligible until such time as all necessary facts are obtained. The eligibility of any remaining household members shall be determined. The income and resources of the ineligible alien and his or her spouse (excluding the attributed income and resources of the alien's sponsor and the sponsor's spouse) shall be treated in the same manner as a disqualified member. If the information or verification is subsequently received, the CSO shall act on the information as a reported change in circumstances. The CSO shall obtain verification of information requested pursuant to subsection (6)(l)(i) and (ii) of this section. The CSO shall verify all other information which the state agency determines is questionable and which affects household eligibility and benefit level.

(7) Households refusing to cooperate with quality control.

(a) A food stamp household refusing to cooperate as a part of a quality control review is ineligible to receive benefits.

(b) The household remains ineligible until the quality control review requirements have been met or ninety-five days from the end of the annual quality control review period, whichever comes first.

(c) If a household reappplies after ninety-five days from the end of the annual quality control review period, a nonexpedited household must provide verification of all eligibility requirements prior to being determined eligible. Households meeting expedited service eligibility must provide verification of all eligibility requirements prior to receiving second month's benefits. [Statutory Authority: RCW 74.04.510; 85-06-064 (Order 2214), § 388-54-660, filed 3/6/85; 83-10-078 (Order 1959), § 388-54-660, filed 5/4/83; 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.

(d) An individual, age sixty or older, and his or her spouse not able to prepare his or her own meals because he or she suffers from a disability considered permanent under the Social Security Act or some other permanent physical or mental nondisease-related disability even though the elderly individual may be living with others. The income of other household members cannot exceed one hundred sixty-five percent of poverty level.

(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 their natural, adoptive or stepchildren or such children living with parents unless at least one parent is elderly or disabled. Elderly or disabled is defined as:

(i) An individual sixty years of age or older; or

(ii) An individual receiving Supplemental Security Income benefits under Title XVI of the Social Security Act or disability or blindness payments under Titles I, II, XIV or XVI of the Social Security Act; or

(iii) A veteran with a service-connected disability rated or paid as total under Title 38 of the U.S.C. or is considered in need of regular aid and attendance or permanently housebound under such title of the code; or

(iv) A surviving spouse of a veteran and considered in need of aid and attendance or permanently housebound or a surviving child of a veteran and considered to be permanently incapable of self-support under Title 38 of the U.S.C.; or

(v) A surviving spouse or child of a veteran and entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death under Title 38 of the U.S.C. and has a disability considered permanent under Section 221(i) of the Social Security Act.

(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) Siblings (defined as natural, adopted, half or stepbrothers and stepsisters) unless at least one sibling is elderly or disabled.

(e) 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) Students enrolled in an institution of higher education who are ineligible because of not meeting the requirements of WAC 388-54-670.

(d) Other individuals sharing living quarters with the household but do not customarily purchase food and prepare meals with the household.

(4) The following individuals residing with a household shall not be considered household members in determining eligibility or allotment levels and are termed excluded household members. Income and resources of excluded individuals are considered as in WAC 388-54-83050.

(a) Persons disqualified for intentional program violation;

(b) Persons sanctioned as part of a disqualified workfare household;

(c) Persons who are ineligible aliens;

(d) Persons who are disqualified for failure to secure or provide a Social Security number.

(5) Boarders are not eligible to participate in the program unless the household providing the board requests the boarder be included in the food stamp household. 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.

(6) 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.

(7) 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) 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. 85-20-030 (Order 2286), § 388-54-665, filed 9/24/85; 83-08-071 (Order 1956), § 388-54-665, filed 4/6/83; 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 and job search. (1) Each individual between the ages of eighteen and sixty is required to register for employment at certification and once every twelve months thereafter. A child reaching age eighteen during a certification period shall be registered for work during the next recertification process.

(2) The following people are exempt from work registration:

(a) A person physically or mentally unfit for employment;

(b) A parent or other member of the household having responsibility for the care of a dependent child under six years of age or of an incapacitated person.

If the child has his or her sixth birthday within a certification period, the individual responsible for the care of the child shall fulfill the work registration requirement at the next recertification, unless the individual qualifies for another exemption.

(c) A person receiving unemployment compensation (UC), or a person applying for but not yet receiving unemployment compensation;

(d) A household member subject to and participating in the work incentive program (WIN), community work and training program (CWEP), or employment and training (E&T) programs;

(e) A person employed or self-employed at least thirty hours per week, or receiving weekly earnings equal to the federal minimum wage, multiplied by thirty;

(f) A student enrolled at least half time in any recognized school, training program or institution of higher education provided those students enrolled in higher education have met the eligibility conditions in WAC 388-54-670;

(g) A regular participant in a drug addiction or alcoholic treatment and rehabilitation program;

(h) A person complying with work requirements imposed as a participant in any refugee program;

(i) A migrant or seasonal farmworker under contract or similar agreement with an employer to begin employment within thirty days;

(3) The department shall provide work registration forms to the applicant for each household member required to register. Household members are registered when a completed work registration form is submitted to the department.

(4) The applicant's statement concerning the employability of each member of the household shall be accepted unless the information is questionable. The department shall verify any claim for exemption it determines questionable.

(5) Persons required to register for work are subject to job search. Persons subject to job search are required to:

(a) Contact as required by the job service center (JSC) up to twenty-four prospective employers during an eight-week or two four-week period or periods of mandatory job search each time they are entered into the food stamp program or each twelve months, whichever occurs sooner;

(b) Report at a prescheduled time to the JSC on the result of all job contacts twice during the eight-week period;

(c) Comply with JSC follow-up interviews.

(6) Each member required to register for employment shall also be required to:

(a) Report for an interview to the JSC;

(b) Respond to a request from the JSC requiring supplemental information regarding employment status or availability for work;

(c) Report to an employer to whom referred by the JSC, if the potential employment is suitable;

(d) Accept a bona fide offer of suitable employment to which referred by the JSC;

(e) Continue suitable employment to which referred. Suitability of employment shall be determined by the JSC.

(7) If a household member refuses or fails to comply with the work registration or job search requirements without good cause, the household shall be ineligible for participation in the program, until the member moves from the household, becomes exempt, or, for two

months, whichever is earlier. Any new household containing this member shall be disqualified.

(a) The JSC shall determine whether good cause existed for failure to comply. Facts and circumstances considered include information from the household member, employer, and the JSC. Good cause includes circumstances beyond the member's control, such as but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, unavailability of transportation, or the lack of adequate child care for children having reached age six but under age twelve.

(b) A household member exempt from work registration because he or she was registered for work under WIN, E&T, CWEP, or UC and failing to comply with a WIN, E&T, CWEP, or UC requirement comparable to a food stamp work registration or job search requirement shall be treated as though the member had failed to comply with the corresponding food stamp requirements.

(c) When the CSO learns a household member has refused or failed without good cause to comply with such a requirement, the CSO shall determine whether the requirement was comparable. The WIN, E&T, CWEP, or UC requirement shall not be considered comparable if it places responsibilities on the household exceeding those imposed by the food stamp work registration requirements.

(d) When the CSO determines the requirement is comparable, the entire household shall be disqualified. A household shall not be disqualified from participation if the noncomplying member meets one of the work registration exemptions. Household members failing to comply with a noncomparable WIN, CWEP, E&T, or UC requirement shall lose their exemption and must register for work.

(8) Each household has 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 with work registration and job search requirements for determination of noncompliance with a comparable WIN, CWEP, E&T, or UC work requirement.

Within ten days of receipt of notice of failure to comply, provide the household with notice of adverse action. The notice shall contain the proposed period of disqualification and shall specify the household may reapply at the end of the disqualification period.

(9) 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.

(10) A registrant moving out of the jurisdiction of the JSC office with which he or she is registered must re-register at his or her new location.

(11) 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.

(12) The household shall be held liable for any over-issuances resulting from erroneous information given by the household member or the household's authorized representative. [Statutory Authority: RCW 74.04.510. 85-09-013 (Order 2222), § 388-54-675, filed 4/8/85; 83-08-071 (Order 1956), § 388-54-675, filed 4/6/83; 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 388-54-676 Workfare. (1) All individuals required to register for work under WAC 388-54-675 shall be required to register for workfare if residing in a designated workfare project area. Workfare registration referrals shall be extended to include:

(a) Households exempt from work registration because they are receiving unemployment compensation;

(b) Caretaker of a child over six; and

(c) Household members subject to and participating in the WIN program less than twenty hours per week.

(2) The hours of mandatory workfare participation shall be determined by dividing the food stamp allotment by the federal or state minimum wage, whichever is higher.

(a) The participant shall not be required to work more than thirty hours a week; however, the participant may elect to work in excess of thirty hours per week provided the weekly average for the month does not exceed thirty hours.

(b) Participants working part time shall not be required to participate in workfare and employment more than a combined total of thirty hours per week.

(c) Participants shall not be required to work more than eight hours per day. The participant may voluntarily work more than eight hours a day.

(3) The workfare site shall be considered suitable unless the household can demonstrate or the department becomes aware that:

(a) The participant is required to join, resign from, or refrain from joining any legitimate labor organization;

(b) The work offered is at a site subject to a strike or lockout;

(c) The degree of risk to health and safety is unreasonable;

(d) The participant is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources;

(e) The distance from the participant's home to the place of employment is more than a two-hour round trip commute not including transporting a child to and from a child care facility; or

(f) The working hours or nature of the work interferes with the participant's religious observances, conviction, or beliefs.

(4) In determining if a household has good cause for refusal or failure to cooperate, the following criteria shall apply:

(a) Circumstances beyond a household member's control, such as, but not limited to:

(i) Illness;

(ii) The illness or incapacitation of another household member requiring the presence of the workfare participant;

(iii) A household emergency; or

(iv) The lack of transportation when transportation is not provided by the department.

(b) Necessity for a parent or other responsible household member to care for a child between the age of six and twelve because adequate child care is not otherwise available;

(c) Becoming exempt from the workfare eligibility requirements; or

(d) Household moving out of the area of the workfare project.

(5) If the department finds a household member refuses or fails to comply with workfare requirements without good cause, the household shall be ineligible for participation until the member completes the outstanding workfare obligation or serves the sanction period. The sanction period shall be two months for every month of refusal or failure to participate.

(a) When a household is sanctioned for refusal or failure to comply, none of the household shall be eligible to participate in the food stamp program during the sanction.

(b) If a sanctioned household member joins another food stamp household, that household's eligibility and benefit level shall be determined as follows:

(i) The income and resources of the household member or members disqualified for noncompliance with workfare shall count in their entirety, and the entire household's allowable earned income, standard, medical, dependent care, and excess shelter deductions shall apply to the remaining household members.

(ii) An individual disqualified for noncompliance with workfare shall not be included when determining the household's size for the purpose of assigning a benefit level to the household or of comparing the household's monthly income with income eligibility standards. No household's coupon allotment shall be increased as a result of the disqualification of one or more household member or members for workfare noncompliance.

(6) Eligibility may be reestablished during a disqualification period if the household reapplies and is determined eligible, and the member failing to comply or any other eligible workfare member satisfies all outstanding workfare obligations. Eligibility for participation will resume the day the outstanding workfare obligation is completed.

(7) Child care, transportation expenses, and other work-related costs may be provided by DSHS. [Statutory Authority: RCW 74.04.510. 84-06-029 (Order 2080), § 388-54-676, filed 2/29/84. Statutory Authority: 1983 1st ex.s. c 41. 83-21-082 (Order 2040), § 388-54-676, filed 10/19/83.]

WAC 388-54-677 Voluntary quit. No applicant or recipient household whose primary wage earner voluntarily quit his or her most recent job without good cause shall be eligible for participation in the program. Consequences of the primary wage earner quitting his or her job without good cause shall be explained at the time of application. Benefits shall not be delayed beyond normal processing time pending the outcome of voluntary quit determination.

(1) Voluntary quit applies if any currently unemployed household member required to register for full-time work has quit his or her most recent job without good cause within the last sixty days and the employment involved twenty hours or more weekly or provided weekly earnings equal to federal minimum wage multiplied by twenty.

(a) An employee of the federal, state, or local government participating in a strike against such government and dismissed from that job because of participation in a strike, shall be considered to have voluntarily quit a job without good cause.

(b) Changes in employment status resulting from reducing hours of employment, while working for the same employer, terminating a self-employment enterprise, or resigning from a job at the demand of the employer will not be considered as a voluntary quit for purpose of this subsection.

(2) Voluntary quit applies to the household's primary wage earner. The primary wage earner shall be that household member age eighteen or over acquiring the greatest amount of earned financial support for the household at the time of the quit.

(3) The CSO determines if the voluntary quit was without good cause. See WAC 388-54-675 (7)(a) for explanation of good cause. Good cause for leaving employment shall also include:

(a) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin or political beliefs;

(b) Work demands or conditions rendering continued employment unreasonable, such as working without being paid on schedule;

(c) Acceptance by the primary wage earner of employment, or enrollment of at least half time in any recognized school, training program, or institution of higher education including fulfillment of the provisions in WAC 388-54-670(2), requiring the primary wage earner to leave employment;

(d) Acceptance by any other household member of employment or enrollment at least half time in any recognized school, training program or institution of higher education in another county or similar political subdivision requiring the household to move thereby requiring the primary wage earner to leave employment;

(e) Resignations by persons under the age of sixty recognized by the employer as retirement;

(f) Employment becoming unsuitable by not meeting the criteria specified in WAC 388-54-675(7) after the acceptance of such employment;

(g) Acceptance of a bona fide offer of employment of more than twenty hours a week or where the weekly

earnings are equivalent to the federal minimum wage multiplied by twenty hours which, because of circumstances beyond the control of the primary wage earner, subsequently either does not materialize or results in employment of less than twenty hours a week or weekly earnings of less than the federal minimum wage multiplied by twenty hours; and

(h) Leaving a job in connection with patterns of employment where workers frequently move from one employer to another such as migrant farm labor or construction work. There may be some circumstances where households will apply for food stamp benefits between jobs particularly in cases where work may not yet be available at the new job site. Even though employment at the new site has not actually begun, the quitting of the previous employment shall be considered as with good cause if part of the pattern of that type of employment.

(4) If the quit is without good cause, the household's application shall be denied for a period of ninety days beginning with the day of application:

The household shall be advised of the reason for the denial, period of disqualification, rights to reapply, and right to request a fair hearing.

(5) If the quit without good cause occurs in a participating household, provide notice of adverse action to the household within ten days of the determination of voluntary quit. A participating household shall be disqualified for three months. Those households leaving the program before the sanction can be imposed shall receive the sanction when the household reapplies. The adverse action notice shall be the same as for an applicant household. If a participating household requests a fair hearing to appeal the sanction and the CSO is upheld, the sanction will begin the first of the month after the hearing decision is rendered.

(6) If an application for participation in the food stamp program is filed in the third month of disqualification, the department shall use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month or months if all other eligibility criteria are met.

(7) The department shall request verification of the household's statements only to the extent the information given by the household is questionable:

(a) The primary responsibility for providing verification rests with the household;

(b) If it is difficult or impossible for the household to obtain documentary evidence in a timely manner, the department shall offer assistance to the household to obtain the needed verification;

(c) Acceptable sources of verification include but are not limited to the previous employer, employee association, union representatives and grievance committees or organizations;

(d) The department is responsible for obtaining verification from acceptable collateral contacts provided by the household;

(e) If the household and department are unable to obtain requested verification because the cause for the quit resulted from circumstances that for good reason

cannot be verified, the household will not be denied access to the program. [Statutory Authority: RCW 74.04.510. 85-09-013 (Order 2222), § 388-54-677, filed 4/8/85; 80-15-080 (Order 1558), § 388-54-677, filed 10/20/80; 79-07-056 (Order 1409), § 388-54-677, filed 6/25/79.]

WAC 388-54-678 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-54-679 Strikers. (1) A striker shall be anyone involved in a strike or 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. Any employee affected by a lockout shall not be deemed to be a striker. An individual going on strike who is exempt from work registration the day prior to the strike, other than those exempt solely on the grounds they are employed, shall not be deemed to be a striker. Examples of nonstrikers are:

(a) Employees whose workplace is closed by an employer in order to resist demands of employees (e.g., a lockout).

(b) Employees unable to work as a result of striking employees (e.g., truck drivers not working because striking newspaper pressmen prevent newspapers from being printed); and

(c) Employees not part of the bargaining unit on strike not wanting to cross a picket line due to fear of personal injury or death.

(2) Households with striking members shall be ineligible to participate in the food stamp program unless the household was eligible for benefits the day prior to the strike and is otherwise eligible at the time of application. However, such a household shall not receive an increased allotment as the result of a decrease in the income of the striking member or members of the household.

(3) Prestrike eligibility shall be determined by considering the day prior to the strike as the day of application and assuming the strike did not occur.

(4) Eligibility at the time of application shall be determined by comparing the striking member's income before the strike to the striker's current income and adding the higher of the two to the current income of nonstriking members during the month of application.

To determine benefits, deductions shall be calculated for the month of application as for any other household.

Whether the striker's prestrike earnings are used or his or her current income is used, the earnings deduction shall be allowed if appropriate. Strikers whose households are eligible shall be subject to the work registration requirements unless exempt. [Statutory Authority: RCW 74.04.510. 85-09-013 (Order 2222), § 388-54-679, filed 4/8/85.]

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, to the extent training allowances are not a reimbursement.

(d) Payments under Title I (VISTA, University Year for Action, etc.) of the Domestic Volunteer Service Act of 1973 (P.L. 93-113, 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) Moneys withheld from public assistance for purposes of recouping an overpayment resulting from the household's intentional failure to comply with the public assistance program's requirement.

(c) An annuity, pension, retirement, veteran's, or disability benefit; workmen's or unemployment compensation; and old-age, survivor's, or Social Security benefits; or strike benefits.

(d) The total payment to a household on behalf of a foster child or adult.

(e) Support and alimony payments from nonhousehold members made directly to the household.

(f) Scholarships, educational grants (including loans on which repayment is deferred), fellowships, and veteran's education benefits in excess of amounts excluded.

(g) Payments received from government-sponsored programs.

(h) Dividends, interest, royalties, and all other direct money payments which are gain or benefit.

(i) 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.

(j) Child support refund payments received by AFDC recipients from the office of support enforcement.

(3) The following items shall be disregarded as income:

(a) Moneys from any source voluntarily returned to repay a prior overpayment received from that same source.

(b) Mandatory deductions from sources other than AFDC, refugee, GA-U, and GA-S grants to repay a prior overpayment from that same source.

(c) Child support payments received by AFDC recipients which must be transferred to support enforcement. [Statutory Authority: RCW 74.04.510. 86-01-009 (Order 2315), § 388-54-725, filed 12/5/85; 85-11-035 (Order 2235), § 388-54-725, filed 5/15/85; 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 388-54-728 Income eligibility. (1) Eligibility shall be determined prospectively during the certification period for migrants.

(2) For all other households, eligibility shall be determined prospectively in the beginning months and retroactively thereafter.

(3) When a household gains and timely reports a member who has not received food stamps within the last calendar month, the department shall consider the new member's income and circumstances prospectively for the first two months of participation. [Statutory Authority: RCW 74.04.510. 85-20-030 (Order 2286), § 388-54-728, filed 9/24/85; 84-06-015 (Order 2078), § 388-54-728, filed 2/28/84.]

WAC 388-54-730 Income--Eligibility standards.

(1) Eligibility shall be determined on the basis of gross income and net food stamp income, except those households containing a member sixty years of age or over, or a member receiving 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, or is a veteran or a surviving disabled spouse or a surviving disabled child as defined by WAC 388-54-665 (2)(b).

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, 1985,

Gross Monthly Income Eligibility Standards Table

Household Size	Monthly Standards
1	\$ 569
2	764
3	959
4	1,154
5	1,349
6	1,544
7	1,739
8	1,934
Each additional person	+ 195

Effective July 1, 1985,

Net Monthly Income Eligibility Standards Table

Household Size	Maximum Allowable Net Income
1	\$ 438
2	588
3	738
4	888
5	1,038
6	1,188
7	1,338

Household Size	Maximum Allowable Net Income
8	1,488
Each additional member	+ 150

(2) Disabled individuals, sixty years of age or older, residing with others, must have the other members meet the following monthly income eligibility standard table. For definition of elderly and disabled, refer to WAC 388-54-665 (1)(d).

Effective July 1, 1985,

Elderly and Disabled Separate Household Income Eligibility Standards Table

Household Size	Maximum Gross Monthly Income Elderly and Disabled Separate Household
1	\$ 722
2	970
3	1,217
4	1,465
5	1,712
6	1,960
7	2,207
8	2,455
Each additional member	+ 248

[Statutory Authority: RCW 74.04.510. 85-16-048 (Order 2264), § 388-54-730, filed 7/31/85; 84-17-070 (Order 2140), § 388-54-730, filed 8/15/84; 83-17-072 (Order 2010), § 388-54-730, filed 8/19/83; 83-08-071 (Order 1956), § 388-54-730, filed 4/6/83; 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 388-54-737 Income--Energy allowance. 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	\$30
2	39
3	46
4	56
5	63
6	72
7	84
8 or more	92

[Statutory Authority: RCW 74.04.510. 86-01-078 (Order 2318), § 388-54-737, filed 12/18/85; 84-04-067 (Order 2072), § 388-54-737, filed 2/1/84; 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 ninety-five dollars per household per month.
- (2) An earned income deduction of eighteen percent of gross earned income. Earnings 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 thirty-four dollars. The dependent care deduction in combination with the shelter deduction shall not exceed one hundred thirty-four dollars.

(4) Shelter costs in excess of fifty percent of the household's income after deducting standard, earned income, and dependent care deductions. The shelter deductions alone or in combination with the dependent care deduction shall not exceed one hundred thirty-four 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, cooling and electricity, water, garbage, sewage disposal, and a standard basic telephone allowance, 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; or
- (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 utility amounts include utilities such as heating and cooling costs, cooking fuel, electricity not used to heat or cool the residence, water, garbage, sewage disposal, and telephone. Cooling costs are defined as central air conditioners or operation of a room air conditioner.

<u>Persons in Household</u>	<u>Annualized Utility Standards</u>
	December 1, 1984
1	\$ 131
2	140
3	150
4	158
5	169
6	178
7	184
8	191
9	199
10 or more	209

(e) Households not incurring any separate utility charges for heating or cooling costs shall not be entitled to claim the standard utility allowance.

(f) If a household is not entitled to the standard utility allowance, the household may claim actual utility expenses for any utility which the household does pay separately.

(i) The telephone standard, for families incurring telephone costs, but not entitled to claim the standard utility allowance, is ten dollars.

(ii) The telephone allowance applies to households not entitled to claim the standard utility allowance, but which have telephone expenses.

(g) If a household requests and can verify the household's utility bills, the actual utility costs shall be used rather than the standard utility allowance.

(h) A household shall not be allowed to switch between actual utility costs and the utility standard for a period of twelve months unless:

- (i) The household changes residence; or
- (ii) The household begins to incur a heating and/or cooling cost; or
- (iii) The household no longer incurs a heating and/or cooling cost.

(i) Where the household shares a residence and utility costs with other individuals, the standard allowance shall be divided equally among the individuals contributing to meeting the utility costs. The household shall only be permitted to use the household's prorated share of the standard allowance.

(j) Households living in a public housing unit or other rental housing unit having central utility meters and charging the household only for excess utility costs shall not be permitted to use the standard utility allowance including a heating or cooling cost component. Payment of excess heating or cooling costs shall not qualify the household for the standard utility allowance including a heating or cooling component.

(5) Households containing one or more members who are elderly or disabled, as defined in WAC 388-54-665 (2)(b), shall be authorized:

(a) A dependent care deduction up to one hundred thirty-four 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 exceeding fifty

percent of the household's monthly income after all applicable deductions have been made.

(6) An individual who is elderly or disabled, as defined in WAC 388-54-665 (2)(b), shall be authorized 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 on 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 eyeglasses 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; and

(ii) The cost of special diets. [Statutory Authority: RCW 74.04.510, 85-20-030 (Order 2286), § 388-54-740, filed 9/24/85; 85-05-013 (Order 2203), § 388-54-740, filed 2/13/85; 84-04-067 (Order 2072), § 388-54-740, filed 2/1/84; 83-19-034 (Order 2023), § 388-54-740, filed 9/14/83; 83-08-071 (Order 1956), § 388-54-740, filed 4/6/83; 83-03-015 (Order 1934), § 388-54-740, filed 1/12/83; 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 388-54-745 Income--Budgeting. (1) Budget income for migrant households prospectively over the certification period.

(2) Budget PA and SSI income prospectively over the certification period.

(3) Other households shall be prospectively budgeted in the beginning months and retrospectively budgeted in months other than beginning months, except as provided in subsection (4) of this section.

(4) Average nonexcluded scholarships, deferred education loans, and other educational grants over the period of intended use.

(5) For prospective budgeting:

(a) Count income already received and which can be reasonably anticipated to be received by the household during the month of application. Count only the income which can be reasonably anticipated for the second beginning month.

(b) Budget income prospectively for the month a nonparticipating individual is added to the household and the following month when reported timely. Combine prospective budgeting for the nonparticipating individual with the method in effect for the rest of the household.

(c) Income from self-employment shall be considered according to WAC 388-54-750.

(d) Average contractual income, except for migrant households.

(6) For retrospective budgeting:

(a) Use the household composition as of the last day of the report month.

(b) Disregard income received in a beginning month from a source which no longer provides income to the household. To be disregarded, income must have been included in the household's prospective budget. The disregard shall be for no more than one month.

(c) Disregard income received from a discontinued source by a nonassistance household member if that member applies for and begins to receive a PA grant. The household must have reported at least ten days prior to the start of the payment month.

(d) Use self-employment income from the corresponding report month.

(e) Count an AFDC corrective payment. An AFDC corrective payment is an AFDC warrant in addition to the regular monthly warrant. Budget only corrective payments which cover the current month. Disregard corrective payments received outside the month for which it is issued.

(7) When a participating household member establishes a new household, remove the member from the prior household and use the method of income budgeting that was in effect in the prior household.

(8) Budget income deductions as follows:

(a) Medical, medical reimbursements, dependent care, and shelter will be anticipated in the beginning months.

(b) Under retrospective budgeting, the department shall use a household's expenses from the corresponding report month.

(c) A household may elect to have expenses which fluctuate or are billed less often than monthly, averaged over the period the expense is to cover. [Statutory Authority: RCW 74.04.510, 85-20-030 (Order 2286), § 388-54-745, filed 9/24/85; 84-06-015 (Order 2078), § 388-54-745, filed 2/28/84; 79-03-033 (Order 1374), § 388-54-745, filed 3/1/79.]

WAC 388-54-750 Income--Self-employment. A household whose income is from self-employment shall be certified according to this section.

(1) The department shall add all gross self-employment income including capital gains and exclude the cost of producing the self-employment income.

(2) For prospective budgeting average income to determine eligibility and payment levels in the beginning months as follows:

(a) 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.

(b) 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.

(c) 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.

(d) 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) For retrospective budgeting add all gross self-employment income including capital gains and subtract the cost of doing business from the corresponding report month.

(a) 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.

(b) Allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of labor, stock, raw material, seed, fertilizer, interest paid to purchase income-producing property, insurance premiums, and taxes paid on income-producing property.

(c) The following items are not to be allowed as a cost of producing self-employment income:

(i) Payments on the principal of the purchase price of income producing real estate and capital assets, equipment, machinery, and other durable goods;

(ii) Net losses from previous periods; and

(iii) 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.

(iv) Depreciation. [Statutory Authority: RCW 74.04-.510, 85-20-030 (Order 2286), § 388-54-750, filed 9/24/85; 83-08-071 (Order 1956), § 388-54-750, filed 4/6/83; 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. (1) Certify assistance households for a period which coincides with the scheduled assistance review or end of the assistance period, whichever is earlier.

(2) Certify households consisting of migrants up to three months.

(3) Certify households without earned income and all members are at least sixty years of age or receive SSA or SSI for up to twelve months.

(4) Certify households, where there is little likelihood of change for six months.

(5) Certify households subject to monthly reporting for six months.

(6) Certify all other households for up to three months. [Statutory Authority: RCW 74.04.510, 85-20-030 (Order 2286), § 388-54-760, filed 9/24/85; 84-06-014 (Order 2077), § 388-54-760, filed 2/28/84; 83-08-071 (Order 1956), § 388-54-760, filed 4/6/83; 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) A written notice of eligibility, denial, or pending status shall be provided to all applicant households as soon as a determination is made but not later than thirty days after the date of initial application.

(2) The department shall notify certified households prior to effecting any change in benefit levels except as provided in subsection (2)(c) of this section.

(a) Households shall be given at least ten days advance notice prior to any action to reduce or terminate benefits within the certification period except as provided in subsections (2)(b) and (2)(c) of this section.

(b) For changes reported on the monthly status report as part of food stamp monthly reporting, the department shall notify households by the date benefits are to be received or in place of the benefits.

(c) Advance notice shall not be required when:

(i) Mass changes are made by federal or state government;

(ii) The department determines that the members of a household have died;

(iii) The household has moved from the state;

(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 intentional program violation or the benefits of the remaining household members are reduced or terminated to reflect

the disqualification of that household member. [Statutory Authority: RCW 74.08.510 [74.04.510]. 84-06-014 (Order 2077), § 388-54-765, filed 2/28/84. 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 388-54-768 Food stamp monthly reporting.

(1) As a condition of continuing eligibility for food stamps certain recipients must return to the department a completed monthly status report by the fifth day of the month following the month for which the monthly status report describes the household circumstances.

Recipients who must report monthly are:

(a) Food stamp households with earned income; or
 (b) AFDC households subject to mandatory monthly reporting per WAC 388-24-044.

(2) Failure to return a completed report 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 by the compliance date, the department shall:

(a) Accept the monthly status report; and
 (b) Continue food stamps if the information on the monthly status report indicates the recipient is still eligible. [Statutory Authority: RCW 74.04.510. 85-20-030 (Order 2286), § 388-54-768, filed 9/24/85; 84-06-014 (Order 2077), § 388-54-768, filed 2/28/84.]

WAC 388-54-770 Certification periods—Households responsibility to report. (1) Certified households subject to a monthly reporting requirement shall report as specified in WAC 388-54-768.

(2) All other 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) Certified households subject to the reporting requirement of subsection (2) of this section shall 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.

(4) Applying households shall report changes related to food stamp eligibility and benefits at the certification interview. Changes, as provided in subsection (2) 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.

(5) 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.

(6) Public assistance households which report a change in circumstances for grant purposes shall be considered to have reported the change for food stamp purposes.

(7) Changes reported to the department shall be documented in the case record. [Statutory Authority: RCW 74.08.510 [74.04.510]. 84-06-014 (Order 2077), § 388-54-770, filed 2/28/84. 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 under prospective budgeting. Changes occurring in the initial beginning month or changes for households consisting solely of migrants shall be effective as follows:

(1) An increase in benefits shall be 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. If verification is not provided within ten days from the date the change was reported, the increase in benefits shall be effective not later than the first allotment issued ten days after the verification is provided.

(2) 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 shall be effective the month following the month in which the change is reported and required verification is provided.

(3) Decreases in the benefit level shall be made effective with the first allotment after the ten-day notice of adverse action has expired, provided a fair hearing and continuation of benefits have not been requested. [Statutory Authority: RCW 74.04.510. 85-20-030 (Order 2286), § 388-54-775, filed 9/24/85; 84-06-014 (Order 2077), § 388-54-775, filed 2/28/84. 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 388-54-776 Certification periods—Effecting changes during the certification period under retrospective budgeting. Changes from a report month shall be effective in the corresponding payment month of the monthly reporting cycle except:

(1) The addition or deletion of a household member shall be effective as in WAC 388-54-775.

(2) Changes in the public assistance grant and supplemental security income which are to occur in the payment month shall be effective in the payment month. See WAC 388-54-745 for AFDC corrective payments. [Statutory Authority: RCW 74.04.510. 85-20-030 (Order 2286), § 388-54-776, filed 9/24/85; 84-06-014 (Order 2077), § 388-54-776, filed 2/28/84.]

WAC 388-54-780 Recertification process. (1) The department shall provide a notice of expiration to all eligible households as follows:

(a) Not earlier than fifteen days prior to, and not later than, the first day of the household's last month of certification, for households certified over a multimonth period; or,

(b) At the time of certification, if the household is certified for one month, or initially certified for two months during the month after the month of application.

(2) A household provided a notice of expiration at the time of certification has fifteen days from the date the notice is received to timely reapply. All other households must apply by the fifteenth day of the last month of certification to be considered timely.

(3) A household certified for one month that has applied in a timely manner shall be notified of the household's status and if eligible provided an opportunity to participate not later than thirty days after the date the household had an opportunity to obtain its last allotment. All other households having timely reapplied shall have their application approved or denied and be notified of the household's status by the end of the current certification period and if eligible permitted to participate in the normal issuance cycle.

(4) A household failing to submit a timely reapplication for recertification or appear for a face-to-face interview scheduled after a timely reapplication, without good cause, shall lose its right to uninterrupted benefits. [Statutory Authority: RCW 74.08.510 [74.04.510]. 84-06-014 (Order 2077), § 388-54-780, filed 2/28/84. Statutory Authority: RCW 74.04.510. 83-08-071 (Order 1956), § 388-54-780, filed 4/6/83; 80-13-058 (Order 1545), § 388-54-780, filed 9/17/80; 79-03-033 (Order 1374), § 388-54-780, 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 except no allotment shall be issued at less than ten dollars.

(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 prorate the initial month's allotment) by multiplying the household's net monthly income by thirty percent, rounding the product up to the next whole dollar if it ends with one through ninety-nine cents, and subtract the result from the thrifty food plan for the appropriate household size. If the computation results in an allotment of one dollar, three dollars, or five dollars, the

amount shall be rounded up to two dollars, four dollars, or six dollars, respectively.

Household Size	Thrifty Food Plan Amounts
1	\$ 79
2	145
3	208
4	264
5	313
6	376
7	416
8	475
9	534
10	593
Each additional member	+59

(3) All one- and two-person households shall receive a minimum monthly allotment of ten dollars except in the initial benefit month where no household may receive a pro rata allotment of less than ten dollars. [Statutory Authority: RCW 74.04.510. 85-05-013 (Order 2203), § 388-54-785, filed 2/13/85; 84-04-067 (Order 2072), § 388-54-785, filed 2/1/84; 83-08-071 (Order 1956), § 388-54-785, filed 4/6/83; 83-03-015 (Order 1934), § 388-54-785, filed 1/12/83; 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 388-54-800 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 FCA 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 FCA received but mutilated or subsequently destroyed in a household disaster, such as a fire or flood or stolen. The following applies:

(a) The household shall report the theft, destruction, or mutilation to the department within ten days of the incident or within the period of the FCA'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 FCA reported stolen subsequent to receipt shall be made only once in a six-month period. Replacement of an FCA 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 FCA reported stolen subsequent to receipt, then a request for a replacement of a stolen FCA shall be denied. If, in the previous five months, the household has been issued a replacement of an FCA or coupons reported as destroyed, then the request for a replacement of a destroyed FCA shall be denied.

(e) The department shall issue a replacement, if warranted, within ten days of receipt of requests.

(f) Replacement of the FCA 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 FCA. The denial or delay of the replacement shall remain in effect pending the hearing decision.

(g) The department shall not issue a replacement FCA or coupons if lost or misplaced after receipt.

(h) The department shall determine that a mutilated FCA is identifiable as belonging to the household requesting the replacement. An unidentifiable FCA shall be treated the same as an FCA which has been lost after receipt.

(3) The department shall issue a replacement FCA stolen or lost in the mail prior to receipt when reported in the period of the FCA'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 FCA 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 FCA.

(c) The department shall issue a replacement FCA no more than ten days after report of nondelivery has been received.

(d) The department shall deny or delay the FCA 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 FCA 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 FCA 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 calendar days after the report of nondelivery of first class mail has been received.

(d) Certified mail coupons.

(i) The department shall deny the request for replacement for coupons mailed by certified mail if a signed receipt of delivery is obtained by the post office from any person residing or visiting at the address provided by the household. These coupons are not replaceable as they are considered stolen after receipt.

(ii) In any other certified mail replacement circumstance, the department will use prudent judgment to determine whether coupons were lost or stolen before or after receipt.

(iii) The department will replace coupons, if otherwise eligible, within ten calendar days after household reports nondelivery of certified mail.

(e) The department shall utilize other delivery methods after one report of nondelivery of either full or partial allotments in a six-month period.

(f) If delivery of a partial allotment is reported, the department shall determine the value of coupons and corroborate 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 coupons when destroyed in a disaster affecting a participating household, not to exceed one month's food coupon 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 an FNS declared disaster allotment and a replacement allotment

under this provision. [Statutory Authority: RCW 74.04-.510, 85-06-061 (Order 2211), § 388-54-800, filed 3/6/85; 83-12-003 (Order 1962), § 388-54-800, filed 5/19/83; 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 388-54-817 Administrative hearings. Fair hearings in the food stamp program are governed by chapters 10-08, 388-08 WAC, and this section.

(1) This subsection governs a food stamp applicant's or recipient's appeal of a department action or decision that aggrieves him or her.

(a) An applicant or participant in the food stamp program has the right to a fair hearing:

(i) On an action by the department or loss of benefits which occurred in the prior ninety days;

(ii) On a denial of a request for restoration of any benefits lost more than sixty days, but less than a year prior to the request;

(iii) At any time within a certification period to dispute the household's current level of benefits.

(b) The appellant must make the request for a hearing within ninety days of receipt of the decision he or she wishes to appeal.

(c) The final administrative decision is to be made within sixty days of the department's receipt of the request for hearing.

(i) The decision-rendering time is extended by as many days as the hearing is continued by a continuance or continuances made on motion by or with the assent of the appellant.

(ii) A hearing request from a household planning to move from the state before the hearing decision would normally be entered shall be expedited.

(d) Before and during the hearing, the appellant or his or her representative with appellant's written authorization, may inspect the department file or files containing information related to the issue raised in the request for hearing. WAC 388-08-435 states the right of access to, and procedures for disclosure of, investigative and intelligence files.

(e) The hearing is conducted in the county of the appellant's residence unless the appellant moves for or assents to the hearing being conducted in another county. When the hearing is conducted by telephone, for the purposes of this rule the hearing is conducted in the appellant's county of residence when the appellant participates in the hearing from a location in his or her county of residence regardless of the location or locations from which the department's representative and/or the presiding and review officer participate in the hearing.

(f) The decision-rendering procedure is the initial decision, petition for review, and review decision procedure described in WAC 388-08-409 and 388-08-413, except the period to timely file a petition for review is ten days from the date the initial decision was mailed.

(g) The department is responsible for carrying out the hearing decision.

(i) If the hearing authority determines a household was incorrectly denied program benefits or was issued a

lesser allotment than was due, lost benefits shall be provided to the household.

(ii) If the hearing authority determines a household is entitled to an increase in benefits, the increase shall be reflected in the coupon allotment within ten days of the receipt of the hearing decision even if the department must provide a supplementary FCA or otherwise provide the household with the opportunity to obtain the allotment outside of the normal issuance cycle.

(iii) If the hearing authority determines a household is entitled to a decrease in benefits, the decrease shall be reflected in the next scheduled issuance following entry of the final decision.

(iv) If the hearing authority determines the department's action was correct, a claim against the household for any overissuances shall be prepared and processed.

(h) A copy of the tape recording of the hearing is provided at no cost to the appellant upon written request. The request must be made within one year of the hearing and made to the office of hearings.

(2) Administrative disqualification hearings are governed by this subsection.

(a) The individual alleged to have committed an act of intentional program violation shall be given at least thirty days advance notice of the hearing date.

(b) The notice of hearing shall be served on the individual alleged to have committed intentional program violation by a method which obtains proof of receipt.

(c) The notice of hearing shall comply with WAC 10-08-040 and the notice, and/or the complaint accompanying the notice, shall contain the following information necessary to comply with federal requirements:

(i) The allegations against the individual;

(ii) A summary of the department's evidence and how and where the evidence can be examined;

(iii) A statement that if the individual or his or her representative fails without good cause to appear at the hearing, a decision will be made based solely on the evidence and argument the department presents and a statement that the individual has ten days from the date of the scheduled hearing to file a motion with the presiding officer showing good cause for the failure to appear and seeking a new hearing.

(iv) A statement that if the hearing is scheduled to be conducted by telephone, the individual can have it changed to an in-person hearing by filing a motion so requesting with the administrative law judge at least one week before the day the hearing is scheduled to be conducted.

(d) The individual, or his or her representative, has the right to one continuance of up to thirty days upon request, provided the motion for the continuance is filed at least ten days in advance of the hearing date.

(e) If the individual alleged to have committed intentional program violation, or his or her representative, fails to appear at the hearing without good cause, the hearing shall be conducted without the individual or representative.

(i) The decision shall be based solely on the evidence and argument the department presents.

(ii) The individual has ten days from the date of the scheduled hearing to file a motion with the presiding officer showing good cause for failure to appear and requesting that the hearing be reinstated.

(f) If the hearing is scheduled to be conducted by telephone and the individual requests it to be changed to an in-person hearing by motion filed at least one week before the day the hearing is originally scheduled to be conducted, the administrative law judge shall grant the motion. If the motion is filed one week or less before the hearing is originally scheduled to be conducted, the administrative law judge shall grant the motion if the moving party shows good cause for having the hearing conducted in person. See WAC 10-08-180.

(g) When the individual appears at the disqualification hearing, the presiding officer shall advise the individual that he or she may refuse to answer questions during the hearing.

(h) The burden of showing intentional program violation is on the department. The burden of proof is clear and convincing evidence.

(i) The decision-rendering procedure is the proposal for decision, exception and argument, administrative decision procedure described in WAC 388-08-406.

(j) The final administrative decision shall be entered within ninety days of the date the individual receives the notice of hearing.

(3) When a food stamp overpayment allegation is combined with a disqualification allegation, subsections (2) and (3) of this section govern the hearing.

(a) The department may combine a food stamp overpayment allegation and an administrative disqualification allegation into a single hearing when the facts alleged for each arise out of the same or related circumstances.

(b) When the overpayment and disqualification allegations are combined into a single hearing, the department must give the individual alleged to have committed intentional program violation and the person or persons alleged to be liable for the overpayment prior notice. Such notice may be given in the notice or notices of hearing or other written document which appraises the individual that the hearings have been combined.

(c) When the overpayment and the disqualification hearings are combined, the hearing procedures and time frames shall be those applicable to a disqualification hearing.

(d) When the overpayment allegation and the disqualification allegation hearings are combined, the household loses its right to a subsequent fair hearing on the overpayment allegation. [Statutory Authority: RCW 74.04.510. 85-06-062 (Order 2212), § 388-54-817, filed 3/6/85; 83-21-011 (Order 2032), § 388-54-817, filed 10/6/83.]

WAC 388-54-820 Fair hearings—Continuation of benefits pending. (1) The household is entitled to continuation of benefits if:

(a) The household requests a fair hearing within the period specified by the notice of adverse action;

(b) The household's certification period has not expired;

(c) The household 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;

(e) A completed timely monthly status report is submitted for each month of continued benefits if the household is subject to monthly reporting.

(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 official makes a preliminary determination in writing and at the hearing that the sole issue is one of federal law or regulation and that the household's claim that the state agency improperly computed the benefits or misapplied such law or regulation is invalid;

(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) For households subject to monthly reporting:

(a) Continue benefits no later than five working days from the day the request for continued benefits is received;

(b) A household whose benefits have been continued shall file monthly reports;

(c) The department shall adjust the household's allotment according to verified changes reported on the monthly status report except for the factors on which the fair hearing is based.

(4) The department shall promptly inform the household in writing if benefits are reduced or terminated pending the hearing decision.

(5) If the department's action is upheld by the hearing decision, a claim against the household shall be established for all overissuances. [Statutory Authority: RCW 74.04.510. 85-20-030 (Order 2286), § 388-54-820, filed 9/24/85; 83-21-011 (Order 2032), § 388-54-820, filed 10/6/83; 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 388-54-829 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-54-850 Overpayments. (1) Definitions of overpayments for which recovery action may be taken.

(a) An administrative error overpayment is an overpayment caused solely by department action or failure to act when the household had properly and accurately reported all the household's circumstances to the department.

(b) An inadvertent household error overpayment is an overpayment caused by misunderstanding or unintended error on the part of the household.

(c) An intentional program violation overpayment is an overpayment which a court or an administrative decision determined was caused by fraud or intentional program violation.

(2) Households and household members against which recovery action can be taken.

(a) The department shall take recovery action against a household which was overpaid food stamps.

(b) If the household membership at the time an agency error or inadvertent household error overpayment occurred is not the same when recovery action is to be taken, the department shall take action against the household containing a majority of those who were members at the time the overpayment occurred.

(c) If the household membership at the time an intentional program violation overpayment occurred cannot be determined, the department shall take recovery action against the household containing the individual committing the act of intentional program violation.

(d) If the department is unable to take recovery action under subsection (2)(a), (b), or (c) of this section, then the department shall take recovery action against the household containing the person who was the head of the household at the time the overpayment occurred.

(3) Amount of overpayment.

(a) When the department discovers an administrative error or inadvertent household error overpayment occurred in the prior twenty-four months or discovers an intentional program violation in the prior seventy-two months, the department shall calculate the allotment the household should have been authorized. The date of discovery shall be the month the overpayment is calculated by completion of the food stamp claim determination report (DSHS 5-07).

(i) If the household accurately and timely reports the household's circumstances and changes in circumstances to the department, the calculation shall be based on the day the household's circumstances were reported.

(ii) If the household did not accurately and timely report the household's circumstances and change of circumstances, the calculation shall be based on the household having accurately reported the household's circumstances to the department in the application or on the date the change of circumstances occurred.

(iii) Calculation shall be based on the department having given the household advance notice if such notice would have been required.

(b) The difference between the monthly allotment the household should have been authorized as calculated in

subsection (3)(a) of this section and the monthly allotment actually authorized is the amount of the overpayment.

(4) Amount of a household's and/or household member's liability for an overpayment. The difference between the amount of the overpayment calculated in subsection (3)(b) of this section and any food stamp lost benefits incurred prior to writing a letter demanding repayment, which had not previously been restored or used as an offset, is the amount of a household's and/or a household member's liability for an overpayment.

(5) Demand letter. Prior to initiating recovery action, the department shall provide the household member a demand letter.

(6) Methods of recovery. A household or household member may repay an overpayment in a lump sum or sums, in regular installments under a payment schedule agreed upon by the household or member and the department, and/or through reductions in the food stamp allotment.

(a) Lump sum.

(i) A household member may pay all or part of his or her liability for an overpayment in a lump sum.

(ii) A household member may use food stamp coupons, money order, check, cash, or any combination thereof to make a lump-sum payment.

(b) Installments.

(i) A household member may use food stamp coupons, money order, check, cash, or any combination thereof to make installment payments.

(ii) If the full liability for the overpayment or overpayments cannot be paid through a lump sum or allotment reduction or reductions, and the remaining amount of liability cannot be repaid in full in installment payments in three years, then the department may compromise the claim by reducing the claim to an amount allowing the household to pay the claim in three years.

(iii) The minimum installment payment schedule the department will agree to with a currently participating household member liable for an overpayment caused by inadvertent household error or intentional program violation shall be not less than the amount that could be recovered through allotment reduction.

(iv) When an installment payment schedule has been agreed to by the household member and the department, the amount to be repaid each month shall be that agreed to regardless of subsequent changes in the household's monthly household allotment unless the parties renegotiate the payment schedule and agree on a new payment schedule.

(v) A household member and/or the department may request of the other party a payment schedule be renegotiated.

(A) The most recent agreed upon payment schedule shall remain in effect until the household member and the department agree to a different schedule.

(B) When a household member requests renegotiation and the department agrees the member's economic circumstances have changed enough to warrant a different schedule, the department shall offer a different schedule

and/or consider any reasonable schedule the member offers.

(C) When a household member requests renegotiation and the department determines the member's economic circumstances have not changed enough to warrant a different schedule, the department shall inform the member of this determination and the most recently agreed upon schedule remains in effect.

(vi) When a household member agreeing to repay in installments fails to make a payment in accordance with the repayment schedule:

(A) The department shall give notice informing him or her:

(I) No payment or an insufficient payment was received;

(II) The household member may contact the department to discuss renegotiation of the payment schedule; and

(III) Unless the household member makes the overdue payment or payments or contacts the department to discuss renegotiation by a specified date, the allotment of a currently participating household will be reduced without additional notice of the overpayment being recovered.

(B) If the household member fails to make the overdue payments or request renegotiation of the payment schedule and the overpayment was caused by inadvertent household error or intentional program violation, the department shall reduce the food stamp allotment without additional notice.

(C) If the household member responds to the notice by making the overdue payments and wishes to continue the current payment schedule, the department shall permit him or her to do so.

(D) If the household member responds to the notice by requesting renegotiation of the payment schedule, the department shall consider the request.

(E) When the department determines agreement on a new repayment schedule cannot be reached and the overpayment was caused by inadvertent household error or intentional program violation, the department may invoke allotment reductions against a currently participating household.

(c) Reduction in food stamp allotment.

(i) Administrative error overpayment.

(A) For administrative error overpayments, the household member may repay through reduction in the food stamp allotment.

(B) The amount to be recovered each month through a reduction in allotment for an agency error overpayment shall be entirely up to the household member.

(ii) Inadvertent household error overpayment and intentional program violation overpayment. The department shall reduce a currently participating household's food stamp allotment to repay an inadvertent household error overpayment by the greater of ten percent of the household's monthly allotment or ten dollars per month and for an intentional program violation overpayment by the greater of twenty percent of the entitlement or ten dollars per month.

(A) If the household member and the department are negotiating in good faith for an agreement to repay in installments, the department shall reduce the household's food stamp allotment only when the household member and the head of the household consent.

(B) If the household member and the department have made an agreement to repay in installments and the member has made each payment when due, the department shall reduce the household's food stamp allotment only when the household member and the head of the household consent.

(7) The department shall suspend collection action when:

(a) The department determines the household member is financially unable to pay the claim; or

(b) The department determines there is little likelihood the state can collect or enforce collection of any significant sum from the household member; or

(c) The department cannot locate a liable household member; or

(d) The department determines cost of further collection action is likely to exceed the amount that can be recovered.

(8) After the claim has been held in suspense for three years, the claim shall be terminated. [Statutory Authority: RCW 74.04.510. 85-07-047 (Order 2216), § 388-54-850, filed 3/20/85; 83-21-011 (Order 2032), § 388-54-850, filed 10/6/83.]

Chapter 388-55 WAC REFUGEE ASSISTANCE

WAC

388-55-010

Common eligibility conditions.

388-55-020

Work and training eligibility conditions.

WAC 388-55-010 Common eligibility conditions.

(1) Assistance shall be granted to refugees within the provisions of P.L. 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 not 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) Persons meeting the criteria in this section shall be eligible for refugee assistance only during the eighteen-month period beginning the first of the month the individual entered the United States.

(11) Full-time students in an institution of higher education are not eligible for refugee assistance, unless participating in a department-approved job or language training program.

(12) The voluntary agency (VOLAG) sponsoring the applicant shall be notified whenever he or she makes application for assistance.

(13) Persons meeting the criteria in this section shall be eligible for additional requirements for emergent situations as in chapter 388-29 WAC. [Statutory Authority: RCW 43.20A.550. 84-13-028 (Order 2111), § 388-55-010, filed 6/13/84; 83-13-069 (Order 1969), § 388-55-010, filed 6/16/83; 82-10-061 (Order 1800), § 388-55-010, filed 5/5/82; 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.]

WAC 388-55-020 Work and training eligibility conditions. (1) 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 or other designated employment agency. Exemptions to employment registration are:

(a) An individual under sixteen, or under age nineteen and attending secondary school or an equivalent level of vocational or technical training full time;

(b) A person ill, incapacitated, or over sixty-five;

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

(d) A mother or other caretaker caring for a child under the age of six;

(e) 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;

(f) An individual employed at least thirty hours per week;

(g) A refugee of any age while enrolled and participating in a CSO approved employability training program intended to have a definite short-term (less than one year) employment objective.

(2) Inability to communicate in English does not justify exemption from registration or acceptance of employment.

(3) For purposes of this section, training shall mean participation in any available and appropriate social service program providing job or language training as approved in the personal employment plan.

(4) 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) 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.

(b) If an employable refugee recipient continues to refuse an offer of employment or training, assistance will be terminated the first of the following month 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.

(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 (4)(b)(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 before the effective date of termination, 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 after the termination of assistance because of refusal to accept or continue employment or training as follows: For three months after the first occurrence and six months for the second and subsequent occurrences. [Statutory Authority: RCW 43.20A.550. 84-13-028 (Order 2111), § 388-55-020, filed 6/13/84; 83-13-069 (Order 1969), § 388-55-020, filed 6/16/83.]

Chapter 388-57 WAC EMPLOYMENT AND TRAINING--WORK INCENTIVE

WAC	
388-57-061	Refusal of training or employment under WIN/E&T without good cause.
388-57-090	Refusal of training or employment under WIN/employment and training without good cause--Fair hearings.
388-57-095	Repealed.
388-57-097	Community work experience program (CWEP).
388-57-100	Employment search program.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-57-095	Intensive applicant employment services--Departmental authority. [Statutory Authority: RCW 74.23-.120. 83-21-013 (Order 2035), § 388-57-095, filed 10/6/83. 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.] Repealed by 84-18-024 (Order 2147), filed 8/29/84, effective 10/1/84. Statutory Authority: RCW 74.04.400.
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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 discontinuing participation in the program.

(2) If 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 on an AFDC-R grant, or a caretaker relative other than the qualifying parent on an AFDC-E grant, such caretaker relative's needs shall not be considered in determining the family's need for assistance. If such caretaker relative is a mandatory WIN registrant, assistance shall be provided in the form of protective payments as specified in WAC 388-33-450;

(b) If such individual is the unemployed parent who qualifies the assistance unit for the AFDC-E program, assistance for the entire assistance unit shall be terminated;

(c) When such individual is the only dependent child in the family, assistance for the family will be terminated; and

(d) 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 WIN/DSHS E&T is determined by that unit as having good cause for not continuing on a training plan or job and who has therefore received a financial sanction, the CSO should promptly restore the assistance payment to the individual if otherwise eligible and/or make other necessary payment adjustments. [Statutory Authority: RCW 74.22.110. 84-22-018 (Order 2166), § 388-57-061, filed 10/31/84. Statutory Authority: RCW 74.23.120. 83-21-013 (Order 2035), § 388-57-061, filed 10/6/83; 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 388-57-090 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.

(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. Refer to WAC 388-57-061. [Statutory Authority: RCW 74.04.400. 84-18-024 (Order

2147), § 388-57-090, filed 8/29/84, effective 10/1/84. 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-097 Community work experience program (CWEP). The community work experience program (CWEP) is authorized under RCW 74.04.473 and as provided for in 45 CFR 238.

(1) The 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 Moses Lake and Mount Vernon CSOs.

(3) Any AFDC recipient shall, as a condition of eligibility for AFDC, participate in CWEP unless the individual:

(a) Is participating in a WIN/E&T approved training plan; or

(b) Meets the WIN/E&T 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; or

(e) Resides in a non-CWEP CSO area.

(4) The department shall:

(a) Provide coordination between CWEP and the WIN/E&T 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 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 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 of AFDC-R 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. If a recipient of AFDC-E qualifying the family for AFDC-E fails or refuses without good cause to participate in the community work experience program, the entire assistance unit shall become ineligible for AFDC-E. These sanctions 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.

(8) AFDC recipients who are not mandatory referrals to CWEP may volunteer for this program in CWEP sites. No sanctions in this chapter shall apply to CWEP volunteers for failure to participate in this program.

[Statutory Authority: RCW 74.04.400. 84-13-005 (Order 2102), § 388-57-097, filed 6/7/84; 83-23-010 (Order 2047), § 388-57-097, filed 11/4/83. 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.]

WAC 388-57-100 Employment search program.

The employment search program is authorized under Public Law 97-248, 96 Stat. 324, 42 U.S.C. 1302 and as further provided in 45 CFR 240.

(1) The purpose of this program is to reduce welfare dependency by assisting individuals in obtaining regular unsubsidized employment.

(2) As a condition of eligibility for AFDC applicants and recipients who are determined job ready by WIN or E&T shall participate in the employment search program.

(a) Initial period: Individuals assigned to the employment search program shall be required to participate in the program for up to eight consecutive weeks.

(b) Individuals completing the initial eight-week participation shall be subject to an additional eight-week participation in any twelve-month period.

(c) The first such period of twelve consecutive months shall begin at any time following the close of the initial period in (a) of this subsection.

(3) Exemptions and sanctions shall be the same as prescribed in WAC 388-57-064 (1), (2), (3), (4), and (7).

(4) Nothing in this section shall restrict WIN program employment search requirements, providing that:

(a) No individual shall be subject to concurrent job search requirements in WIN and the employment search program; and

(b) No individual shall be subject to any sanction for failure to participate in one program in this section if he/she is actively and satisfactorily participating in the other program. [Statutory Authority: RCW 74.04.400. 84-18-024 (Order 2147), § 388-57-100, filed 8/29/84, effective 10/1/84.]

Chapter 388-70 WAC

**CHILD WELFARE SERVICES--FOSTER CARE--
ADOPTION SERVICES--SERVICES TO
UNMARRIED PARENTS**

WAC	
388-70-042	Payment standards--Regular foster family care.
388-70-044	Payment standards--Receiving home care--Standards for using.
388-70-047	Repealed.
388-70-048	Payment standards--Specialized rate foster family care--Child with special needs.
388-70-053	Repealed.
388-70-054	Temporary absence of child from foster care.
388-70-056	Transportation and other expenses--Reimbursement.
388-70-058	Reimbursement for damage or loss caused by child in foster family care.
388-70-066	Foster care out-of-state--Authorization--Payment.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-70-047 Emergency foster care assistance. [Statutory Authority: RCW 74.08.090, 78-09-098 (Order 1335), § 388-70-047, filed 9/1/78; Order 1052, § 388-70-047, filed 9/10/75.] Repealed by 85-13-062 (Order 2242), filed 6/18/85. Statutory Authority: RCW 74.08.090.
- 388-70-053 Payment standards—Incentive plan. [Statutory Authority: RCW 74.08.090, 80-12-005 (Order 1534), § 388-70-053, filed 8/22/80.] Repealed by 85-13-062 (Order 2242), filed 6/18/85. Statutory Authority: RCW 74.08.090.

WAC 388-70-042 Payment standards—Regular foster family care. Effective July 1, 1984, foster care payment standards shall be as follows. Effective May 1, 1985, exceptions to the standards may be approved by a DCFS administrator or designee.

(1) The board payment for foster care of a child in a family foster home is one hundred thirty dollars and forty-four cents per month for a child less than six years of age, one hundred sixty-nine dollars and forty-five cents per month for children six through eleven years of age, and two hundred three dollars and fifty-seven 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 or her birthday occurs.

(2) Foster parents shall be provided eighteen dollars and sixty-seven cents per month for personal incidentals including school supplies. A monthly clothing allowance of twenty dollars and thirty-eight cents is paid for children under twelve years, while twenty-four dollars and twenty-three 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 DCFS administrator.

(4) Additional individual child-specific amounts may be authorized by a DCFS administrator or his or her designee. [Statutory Authority: RCW 74.08.090, 85-13-062 (Order 2242), § 388-70-042, filed 6/18/85; 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 a 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 including the involvement of the child whenever possible.

(2) There are two types of receiving homes:

(a) Regular receiving homes for children age zero through seventeen, and

(b) Specialized receiving homes for children age twelve through seventeen who are runaways or in conflict with their parents.

(3) Receiving homes supported by the department shall be limited to the number the DCFS administrator determines necessary in his or her geographical area. The criteria to be followed are:

(a) Each DCFS office or private agency shall document need for a receiving home and present the request in writing, giving the specifics, to the DCFS administrator.

(b) All receiving homes shall be licensed as foster family homes.

(c) The need for a receiving home or homes must carry a direct relationship to the department's or private agency's type of program and service responsibilities.

(d) 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) Length of stay guidelines for receiving homes are as follows:

(a) Regular receiving homes provide care up to thirty days;

(b) Specialized receiving homes provide care up to fifteen days.

(5) Every six months the DCFS administrator shall receive a written report on each receiving home, resubstantiating continued use and need.

(6) Foster family homes regularly providing care for children on a temporary, emergent, or interim basis and are available for placement twenty-four hours per day shall be designated as regular or specialized receiving homes.

(a) Regular receiving homes shall be paid thirty-two dollars and thirty-five cents per month for each bed available for the emergency placement of children. In addition, the daily rate for receiving home care shall be eleven dollars and thirty-four cents per day per child.

(b) Specialized receiving homes shall be paid sixty-five dollars and twenty-one cents per month for each bed available for the emergency placement of children. In addition, the daily rate for specialized receiving home care shall be fifteen dollars and sixty-seven cents per day per child.

(7) Other foster homes occasionally providing 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 eleven dollars and thirty-four cents per day per child.

(c) Payments in excess of the standards in subsection (6)(a) and (b) of this section may be authorized by the DCFS administrator or his or her designee for individual, child-specific situations.

(8) Temporary or emergency care for a child shall not exceed thirty days. After thirty days, the rate for children remaining in care in a receiving home shall be that for regular full-time foster care except as authorized by

the DCFS administrator. Clothing and personal incidentals are purchased for the child in receiving home care as needed.

(9) Private group care facilities may, at the discretion of the DCFS administrator, be utilized to provide interim care for children and youths requiring care in a group setting. Unless an alternate agreement is made, contracted group care facilities shall be paid for providing interim care at their established daily rate. [Statutory Authority: RCW 74.08.090. 85-13-062 (Order 2242), § 388-70-044, filed 6/18/85; 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 388-70-047 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-70-048 Payment standards--Specialized rate 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 \$ 136.53
per month
- (2) Intellectually/physically handicapped children \$ 136.53
per month
- (3) Emotionally handicapped children \$ 136.53
per month

[Statutory Authority: RCW 74.08.090. 85-13-062 (Order 2242), § 388-70-048, filed 6/18/85; 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 388-70-053 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-70-054 Temporary absence of child from foster care. (1) When a child is temporarily absent from a foster care facility, the actual number of days absent will be paid by the department, provided:

(a) The number of consecutive days of absence does not exceed fifteen within a thirty-day period;

(b) Written notification is provided to the responsible center or DCFS office three days in advance of planned visits exceeding seventy-two hours;

(c) The planned visits of less than seventy-two hours are reported to the responsible center or DCFS office in the child's quarterly progress report prepared by the private agency;

(d) The responsible center or DCFS office is notified on the next working day following the child's unplanned absence (notification may be made by a telephone call to the center or DCFS office followed by written notification within five working days from the facility);

(e) A licensed vacant bed is held for the child;

(f) The child will be accepted back by the facility; and

(g) The center or DCFS office is notified of the date of child's return.

(2) Written verification to the absent child's responsible center or DCFS office will contain the following information:

(a) Planned visits;

(i) Child's name,

(ii) Where the child will visit,

(iii) Beginning and ending dates of the absence, and

(iv) A statement as to whether or not the child's unoccupied bed is being held for the child's return to the facility.

(b) Unplanned absences;

(i) Child's name, age, and home address;

(ii) Time and date the child left the premises;

(iii) A statement as to whether the child is acceptable back by the facility; and

(iv) A statement as to whether or not the child's unoccupied bed will be held for the child's return to the facility.

(3) In respect to absences from foster homes supervised by voluntary child-placing agencies, the preceding procedures will apply.

(4) When there is a planned temporary absence from a child foster family home supervised by a center or DCFS office, the service worker will be involved in the plan. In the case of an unplanned absence, the foster parents will notify the service worker orally, as soon as is practical, of the child's name, time, and date the child left the premises and whether or not the child's unoccupied bed will be held.

(5) In addition to the preceding requirements, the following limitations are placed on the payments for temporary absences of children from a children's group foster care facility and/or a child foster family home:

(a) A child's cumulative total of forty-five days absence within a six-month period is the maximum allowable for payment.

(b) With adequate justification of unusual circumstances, an exception may be submitted for consideration of extension of the consecutive fifteen days and the accumulative forty-five days limitation. [Statutory Authority: RCW 74.08.090. 85-13-062 (Order 2242), § 388-70-054, filed 6/18/85; 79-11-105 (Order 1449), § 388-70-054, filed 10/31/79; Order 1123, § 388-70-054, filed 6/7/76; Order 965, § 388-70-054, filed 8/29/74; Order 913, § 388-70-054, filed 3/1/74.]

WAC 388-70-056 Transportation and other expenses—Reimbursement. (1) When prearranged with the department, foster parents shall be allowed transportation for counseling, court hearings, school related, and medically related trips involving a foster child in their home. The department, within available funds, will provide reimbursement at the same rate authorized for employees. In addition, actual costs of food and lodging necessary to the transportation may be reimbursed.

(2) Runaway dependents from other states:

(a) Planning and payment for return of a child subject to court order in another state and located in this state is the responsibility of the home state.

(i) If the home state refuses to pay for return transportation, the cost may be paid according to provisions of WAC 388-24-270 if the child meets the criteria in WAC 388-24-255.

(3) When children subject to court order run away and are subsequently located and are in the custody of the department or a private agency, responsibility for planning remains with the department or private agency. If there are no financial resources to provide return transportation, the DCFS administrator may approve transportation costs.

(4) Costs for transporting children in foster care from one placement to another within the state may be approved by the DCFS administrator.

(5) Transportation costs for placement of a child to an out-of-state location can be authorized by the DCFS administrator or his or her designee, contingent on the approval of both states involved. (See also WAC 388-70-022(3).) If the placement fails and Washington has retained jurisdiction of the child, transportation cost can be authorized by the DCFS administrator or his or her designee contingent on approval of both states.

(6) When a Washington resident who is also a dependent minor is held by a juvenile court in another state as a runaway and the court requests transportation expenses from the center and the parents state they cannot pay,

(a) An immediate request to the DCFS supervisor with jurisdiction in that court area for return of the child under emergency family assistance should be made.

(b) In the event the other state's children and family services section refuses to take action, the parent's ability to pay the cost is determined by applying the department's standards in WAC 388-11-190. If parents are unable to pay, an exception request may be submitted.

(7) Transportation costs for children residing in receiving/foster/group care in addition to those payable in subsections (1) through (6) of this section may be authorized by a center administrator or designee when:

(a) The transportation is consistent with the child's individual service plan, and

(b) There is no other available resource.

(8) Transportation costs for parents, relatives, or other potential permanent placement resources may be authorized by a DCFS administrator when:

(a) The transportation is consistent with the child's individual service plan, and

(b) The potential placement resource is unable to meet the transportation expense, and

(c) The child currently resides in foster/group care. [Statutory Authority: RCW 74.08.090. 85-13-062 (Order 2242), § 388-70-056, filed 6/18/85; 78-09-098 (Order 1335), § 388-70-056, filed 9/1/78; Order 1123, § 388-70-056, filed 6/7/76; Order 965, § 388-70-056, filed 8/29/74; Order 913, § 388-70-056, filed 3/1/74.]

WAC 388-70-058 Reimbursement for damage or loss caused by child in foster family care. (1) Within the limits of the amount allotted for this purpose, the department may reimburse foster family providers caring for children in DCFS-approved placements, for some damages or losses incurred by the provider and caused by children in their care. Unless an exception is granted by the DCFS administrator, claims shall be limited to three hundred dollars per item or one thousand dollars aggregate per occurrence no matter what type of coverable loss is incurred. Claims must be submitted to the department within thirty days of their occurrence. Determination of the payability of claims will be made by the department's DCFS administrator. Exceptions to the limit may be made by the DCFS administrator. Reimbursement will be based upon documentation of the cost of replacement and of the cause of the loss.

(2) The sole recourse for an appeal of an award, or failure to make an award, shall be to request a rereview by the DCFS administrator. [Statutory Authority: RCW 74.08.090. 85-13-062 (Order 2242), § 388-70-058, filed 6/18/85; 80-04-055 (Order 1495), § 388-70-058, filed 3/21/80.]

WAC 388-70-066 Foster care out-of-state—Authorization—Payment. (1) With the consent of the interstate compact program manager, foster parents may be permitted to remove from the state a child in a permanent foster home. If the child is subject to court order, permission from the court must also be obtained. When the foster family moves to another state, arrangements with another social agency for supervision of the foster home placement are required. Such arrangements for supervision are not required when the family leaves the state during a vacation. Payments are continued at the department's current rates.

(2) When a child, legally a resident of the state of Washington, is placed in foster care in another state by the welfare department of that state, foster care payments are made at the rate requested by the state, providing payment does not exceed the department's current rates.

(3) State office approval of out-of-state placement is required before payment is made. [Statutory Authority: RCW 74.08.090. 85-13-062 (Order 2242), § 388-70-066, filed 6/18/85; 78-09-098 (Order 1335), § 388-70-066, filed 9/1/78; Order 913, § 388-70-066, filed 3/1/74.]

Chapter 388-73 WAC

CHILD CARE AGENCIES--ADULT FAMILY HOMES MINIMUM LICENSING/CERTIFICATION REQUIREMENTS

WAC

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WAC 388-73-012 Definitions. (1) Those terms defined in chapter 74.15 RCW shall have the same meanings when used in this chapter except as otherwise provided herein.

(2) "A developmentally disabled adult" is an individual eighteen years of age or over suffering from a mental deficiency rendering him or her incapable of assuming those responsibilities expected of the socially adequate person, such as self-direction, self-support, and social participation.

(3) An "adult in need of protection" is an individual age eighteen or over requiring a degree of supervision, personal, and social care because of age, frailty, physical disability, mental confusion, or disturbance.

(4) "Premises" means the buildings wherein the facility is located and the adjoining grounds over which the operator of the facility has direct control.

(5) "Full-time care provider" or "full-time care facility" means a family home for adults, foster family home for children or expectant mothers, group care facility, maternity home, crisis residential center, and juvenile detention facility.

(6) "School-age child" means a child six years of age or older or otherwise eligible for admission to the first grade of a public school.

(7) "Sponsor or sponsors" means person or persons providing, or intending to provide, family home care to developmentally disabled adults or adults in need of protection.

(8) "Capacity" means the maximum number of persons under care at a given moment in time.

(9) "Infant" means a child under one year of age.

(10) "Drop-in care" means unscheduled day care on a one-time only or irregular basis.

(11) "Child," "youth," and "juvenile" mean any individual under the chronological age of eighteen years.

(12) "Semisecure facility" means any facility, including but not limited to crisis residential centers or specialized foster homes, operated in a manner to reasonably assure youth placed there will not run away: *Provided*, That such facility shall not be a secure institution or facility as defined by the federal Juvenile Justice and Prevention Act of 1974 and regulations and clarifying instructions promulgated thereunder. A child shall not be locked in the facility nor any part thereof nor otherwise controlled by the use of physical restraints except as provided in WAC 388-73-048.

(13) "Secure detention facility" and "juvenile detention facility" mean a facility, primarily for the care of juvenile offenders, operated so as to ensure all entrances and exits from the facility are locked, barred, or otherwise controlled so as to prevent escapes.

(14) "A severely and multiply-handicapped child" is a child diagnosed as primarily dependent for most bodily and social functions, except for cardiorespiratory functions. These children shall not include children requiring skilled nursing care as described in WAC 388-88-081. [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-012, filed 2/29/84. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-012, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-012, filed 9/8/78.]

WAC 388-73-014 Persons and organizations subject to licensing. Persons and organizations operating the following types of facilities are subject to licensing under chapter 74.15 RCW and RCW 74.08.044:

(1) "Group care facility" means an agency maintained and operated for the care of a group of children on a twenty-four hour basis.

(2) "Child-placing agency" means an agency placing children for temporary care, continued care, or for adoption.

(3) "Maternity service" means an agency providing or arranging for care or services to expectant mothers regardless of age, before or during confinement, or providing care as needed to mothers and their infants after confinement. See WAC 388-73-702.

(4) "Day care facility" means an agency regularly providing care for a group of children for periods of less than twenty-four hours. Separate requirements are adopted for the following subcategories of day care centers:

(a) A day care center provides for the care of thirteen or more children. No such center shall be located in a private family residence unless the portion of the residence where the children have access is used exclusively for the children during the hours the center is in operation or is separate from the usual living quarters of the family.

(b) A "mini-day care program" means:

(i) A day care center for the care of twelve or fewer children in a facility other than the family abode of the

person or persons under whose direct care and supervision the child is placed; or

(ii) For the care of from seven through twelve children in the family abode of such person or persons.

(c) A family day care home means a home regularly providing care during part of the twenty-four hour day to six or fewer children.

(d) A day treatment program means an agency providing care, supervision, and appropriate therapeutic and educational services during part of the twenty-four hour day for a group of persons under the age of eighteen years and the persons unable to adjust to full-time regular or special school programs or full-time family living because of disruptive behavior, family stress, learning disabilities, or other serious emotional or social handicaps.

(5) "Foster family home" means a person or persons regularly providing care on a twenty-four hour basis to one or more children, expectant mothers, developmentally disabled adults, or other adults in need of protection in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or adult is placed. Separate requirements are adopted for the following subcategories of foster family homes:

(a) A family home for adults means a home regularly providing care on a twenty-four hour basis for up to four developmentally disabled adults; or up to four adults in need of protection.

(b) A foster family home for children or expectant mothers means a home regularly providing care on a twenty-four hour basis to one or more, but not more than four foster children under the age of eighteen years, or to not more than three expectant mothers.

(6) "Crisis residential center" means an agency operating under contract with the department to provide temporary, protective care to children in a semisecured residential facility in the performance of duties specified and in the manner provided in RCW 13.32A.010 through 13.32A.200 and 74.13.032 through 74.13.036. Separate requirements are adopted for the following subcategories of crisis residential centers:

(a) A regional crisis residential center is a structured group care facility whose primary and exclusive functions are those of a crisis residential center.

(b) A group care facility, a portion of which functions as a crisis residential center.

(c) A foster family home functioning either partially or exclusively as a crisis residential center and has been designated as a crisis residential center by the department.

(7) A "facility for severely and multiply-handicapped children" means a group care facility providing residential care to a group of nonambulatory children whose severe, disabling, multiple physical, and/or mental handicaps will require intensive personal care, and may require nursing care, physical therapy, or other forms of therapy. [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-014, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-014, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-

026 (Order 1431), § 388-73-014, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-014, filed 9/8/78.]

WAC 388-73-054 Client records and information.

Records and information concerning persons in care shall be maintained in such a manner as to preserve their confidentiality. For American Indian children, see WAC 388-73-044. Records giving the following information on each person under care shall be maintained at the licensed facility:

(1) Identifying information, including name, birthdate, and, for full-time care providers, dates of admission, absences and discharge; for day care providers, daily attendance.

(2) Names, addresses, and telephone numbers, if any (home and business), of parents and/or other persons to be contacted in case of emergency.

(3) Dates and kinds of illnesses and accidents, medication and treatments prescribed, and time given and by whom, and, except for crisis residential centers and certified juvenile detention facilities, dates and types of immunization, and other pertinent information relating to the person's health.

(4) Written parental consent (or court order) for providing medical care and emergency surgery, except as such care is otherwise authorized by law.

(5) Names, addresses, and telephone numbers of persons authorized to take the person under care out of the facility.

(6) Authorization for acceptance of the person under care. Juvenile detention facilities and crisis residential centers shall record the time and date a placement is made, the names of the person and organization making the placement, and the reasons for the placement.

(7) Records of children severely and multiply handicapped shall also contain:

(a) Information obtained upon admission including identifying and social data, an inventory of personal belongings, medical history, and a report of a physical examination and diagnosis by a physician.

(b) Information about the child's daily care including all plans, treatments, medications, observations, teaching, examinations, physicians' orders, allergic responses, consent authorizations, releases, diagnostic reports, and revisions of assessments.

(c) A summary upon discharge including diagnoses, treatments, and prognosis by the person responsible for the total plan of care; instructions given to the person providing continuing care, and a record of any referrals directed toward continuity of care.

(d) Appropriate information if the child has died including the time and date of death, apparent cause of death, appropriate notification of the physician and relevant others (including the coroner if necessary), and the disposition of the body and personal effects. [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-054, filed 2/29/84. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-054, filed 9/10/79. Statutory Authority: RCW

74.15.030. 78-10-006 (Order 1336), § 388-73-054, filed 9/8/78.]

WAC 388-73-057 Reporting of circumstantial changes. Agencies shall report to the department changes in circumstances which might constitute grounds for reclassification of agency as to category of license or continued eligibility for license and major changes in staff or program, including the following:

(1) Changes in agency's address or location and phone number (license is valid only for address indicated on the license).

(2) Changes in the maximum number, age ranges, and sex of persons licensee wishes to serve as compared to specifications in the license.

(3) Changes in number and qualifications of agency's staffing pattern, change of agency's chief executive, and the death, retirement, or incapacity of a licensee. (A license is valid only for the person or organization named on the license.)

(4) Occurrence of a fire on licensed premises, major structural changes, or damage to premises from any causes and plans for major remodeling of facility.

(5) Change in name of a licensed corporation, or name by which a facility is commonly known, and changes in agency's articles of incorporation and bylaws.

(6) Marriage or divorce of a foster parent or other change in household composition affecting eligibility for license or number of persons that may be served.

(7) The hiring of any new staff person who might have contact with the children in care or the addition of any new volunteer who might have contact with the children in care. [Statutory Authority: RCW 74.15.030. 85-13-064 (Order 2244), § 388-73-057, filed 6/18/85; 78-10-006 (Order 1336), § 388-73-057, filed 9/8/78.]

WAC 388-73-058 Earnings, allowances, personal belongings. Except for crisis residential centers, juvenile detention facilities, and foster family homes, full-time child care providers shall give each child a regular allowance based on his or her age, needs, and ability to handle money. Group care facilities shall account for allowances given and for children's earnings, if any, in a ledger or other appropriate record maintained for this purpose. When a person is discharged, he or she shall be permitted to take his or her personal belongings and all of his or her money, or be fully informed about the transfer of his or her money to another facility. [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-058, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-058, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-058, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-058, filed 9/8/78.]

WAC 388-73-072 Education and vocational instruction. (1) Each group care facility, other than a crisis residential center, facility for severely and multiply-handicapped children, or juvenile detention facility, and

each maternity service, day treatment program, and child-placing agency shall:

(a) Provide or arrange for the provision of a suitable educational plan for each person in care not completing high school. Group care agencies shall provide suitable study areas. If instruction is given on the agency's premises, appropriate classrooms separate from the living area shall be provided.

(b) Provide the department with a written description of its educational program.

(c) Where an academic program is not appropriate for a particular person in care, the agency shall provide or arrange for a vocational training program either within or outside the agency. Such training shall be geared to helping the person to attain self-sufficiency. If a person has job skills, a training program may not be needed, but assistance in obtaining suitable employment shall be provided when necessary.

(2) Each group care facility serving severely and multiply-handicapped children shall provide or arrange for the provision of an individualized education plan suited to the unique needs of each child in care. [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-072, filed 2/29/84. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-072, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-072, filed 9/8/78.]

WAC 388-73-077 Multidisciplinary care plan for severely and multiply-handicapped children. For each severely and multiply-handicapped child, there shall be a multidisciplinary plan of care addressing the social service, medical, nutritional, rehabilitative, and educational needs of each child. The plan shall indicate care to be given and goals to be accomplished and which professional service is responsible for each element of care. The care plan shall be reviewed, evaluated, and updated as necessary by all professional personnel involved in the care of the child. Professional personnel shall meet at least annually to reevaluate each child's current condition, progress, prognosis, and need for ongoing care and additional services. Quarterly progress reports shall be recorded in the child's record. [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-077, filed 2/29/84.]

WAC 388-73-108 Bedrooms. In full-time care facilities:

(1) Hallways, kitchens, living rooms, dining rooms, and unfinished basements shall not be used as bedrooms. Every bedroom shall be an outside room permitting entrance of natural light. Separate sleeping quarters shall be furnished for each sex for children over six years of age.

Multiple occupancy bedrooms shall provide not less than fifty square feet per occupant of floor area exclusive of closets. There shall be not less than thirty inches laterally between beds. In group-care facilities and maternity homes, single occupancy bedrooms shall provide at least eighty square feet of floor space. Each person in

care shall have a bed of his or her own. There shall be no more than four persons to a bedroom except in facilities licensed for more prior to the adoption of these rules.

(2) For each person in care there shall be a bed at least thirty inches wide with a clean, firm mattress, pillow, sheets, blankets, and pillowcases. Pillows shall be covered with waterproof material or be of a washable type. Waterproof mattress covers shall be provided for incontinent persons.

(3) The upper bunk of doubledeck beds are prohibited for use by preschool-age children, expectant mothers, and handicapped persons. When mother and infant sleep in the same room, the room shall contain at least eighty square feet of usable floor space. A crib or bassinet with a clean, firm mattress covered with a waterproof material shall be provided for the infant. No more than one mother and her newborn infant or infants may occupy a bedroom.

(4) Bedding shall be clean; sheets and pillowcases shall be laundered weekly.

(5) No child over the age of one year shall share a bedroom with foster parents or agency staff. An adult must be on the same floor or within easy hearing distance and accessibility to where children under six years of age are sleeping.

(6) See WAC 388-73-146(7) for requirements for cribs for infants.

(7) Only rooms having unrestricted direct access to hallways, corridors, living rooms, day rooms, or such common use area shall be used as bedrooms. [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-108, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-108, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-108, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-108, filed 9/8/78.]

WAC 388-73-118 Toilets, lavatories, and bathing facilities. (1) There shall be at least one indoor flush-type toilet and one lavatory with hot and cold or tempered running water. The following ratios of persons normally on the premises to facilities shall apply:

	Toilets	Lavatories	Bathing Facilities
Day care centers	2 minimum	2 minimum	None required
Day treatment programs	and 1:15 or major fraction	and 1:15 or major fraction	
Mini-day care programs	1 minimum	1 minimum	None required
Group care facilities	2 minimum	2 minimum	1 minimum
Maternity homes	and 1:8 or major fraction	and 1:8 or major fraction	and 1:8 or major fraction
Family home for adults	1 minimum	1 minimum	1 minimum
Foster family home			
Family day care home			

(2) Toilet and bathing facilities shall provide for privacy for persons of the opposite sex six years of age or older.

(3) Toilet, urinals, and handwashing sinks shall be of appropriate height for the children served or be provided with a safe and easily cleanable platform.

(4) For facilities licensed for the care of seven or more persons, lavatories and bathing facilities shall be provided with hot and cold or tempered running water not exceeding one hundred ten degrees Fahrenheit for preschool or mentally retarded children and one hundred twenty degrees Fahrenheit for all others.

(5) All bathing facilities shall have a conveniently located grab bar unless other safety measures, such as nonskid pads, are approved by the department (see subsection (8) of this section). Preschool children and severely and multiply-handicapped children shall not be left unattended in a bathtub.

(6) Equipment for toileting and toilet training of toddlers shall be provided and maintained in a sanitary condition at all times. Infants in diapers and toddlers using toilet training equipment need not be included when determining the number of flush-type toilets required.

(7) Whenever urinals are provided, one toilet less than the number specified may be provided for each urinal installed except the number of toilets in such cases shall not be reduced to less than two-thirds of the minimum specified.

(8) In maternity homes, bathing facilities shall have adequate grab bars in convenient places. All sleeping areas shall have at least one toilet and lavatory on the same floor.

(9) Soap and individual towels or disposable towels or approved other hand drying devices shall be provided. [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-118, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-118, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-118, filed 9/8/78.]

WAC 388-73-140 Health history, physical examinations, immunizations. This section is not applicable to crisis residential centers and juvenile detention facilities.

(1) A health history for each person under care shall be obtained when the person is accepted for care, if possible. The health history shall include the date of the person's last physical examination, allergies, any special health problems, and for children, an immunization history.

(2) If a child has not been under regular medical supervision or has not had a physical examination by a physician, physician's assistant, or certified registered nurse (nurse practitioner) within one year prior to admission, arrangements shall be made for an examination within thirty days. Each severely and multiply-handicapped child shall be under regular medical supervision of a physician. Each child shall be seen by a physician regularly, according to the physician's plan of care as required in WAC 388-73-077.

(3) Yearly physical examinations are required for each child not under regular medical supervision.

(4) Before or on the child's first day of attendance, each child shall present proof of full immunization for

diphtheria, tetanus, pertussis (whooping cough), poliomyelitis, measles (rubeola), rubella (German measles), and mumps as set forth in WAC 248-100-164(2). (Note: Appropriate forms and information may be obtained at the local health department. For the requirements applying to day care centers, see WAC 248-100-164.)

(5) Children not having received all immunizations as set forth in WAC 248-100-164(2) may be accepted on a conditional basis if immunizations are initiated before or on admission and are completed as rapidly as is medically indicated. Exceptions to the immunization requirement shall be made in the case of a parent or guardian expressing religious, philosophical, or personal objections by signing a statement to this effect; or there is a physician's statement that a valid medical reason exists to contraindicate immunization. [Statutory Authority: RCW 74.15.030. 85-18-063 (Order 2277), § 388-73-140, filed 9/4/85; 84-06-030 (Order 2081), § 388-73-140, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-140, filed 1/5/83; 80-13-019 (Order 1540), § 388-73-140, filed 9/9/80. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-140, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-140, filed 9/8/78.]

WAC 388-73-142 Infection control, communicable disease. (1) Each licensee, employee, adult volunteer, and other adult persons having regular contact with persons in care shall have a tuberculin skin test, by the Mantoux method, upon employment or licensing unless medically contraindicated.

(a) Persons whose TB skin test is positive (ten millimeters or more induration) shall have a chest x-ray within ninety days following the skin test.

(b) Routine periodic retesting or x-ray (biennial or otherwise) after the entry testing is not required.

(c) An entry test shall not be required of persons whose TB skin test has been documented as negative (less than ten millimeters) within the last two years nor shall routine periodic retesting or x-ray (biennial or otherwise) be required of such persons.

(2) A record of skin test results, x-rays, or exemptions to such will be kept in the facility.

(3) Persons with a communicable disease in an infectious stage shall not be on duty.

(4) Each facility caring for severely and multiply-handicapped children shall have an infection control program supervised by a registered nurse. The program shall include written policies and procedures regarding the control of infections in the facility. This may include, but is not limited to, the following areas: Isolation, aseptic procedures, reporting of communicable diseases, handwashing and hygiene, toileting and diapering, and laundering. [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-142, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-142, filed 1/5/83; 80-13-019 (Order 1540), § 388-73-142, filed 9/9/80; 78-10-006 (Order 1336), § 388-73-142, filed 9/8/78.]

WAC 388-73-144 Nutrition. (1) Food served by each agency shall be planned to meet the needs of the persons under care, taking into consideration the persons' ages, developmental levels, individual differences, individual metabolic differences, cultural background, any handicapping condition, and hours of care in the facility. To promote an educational and socializing environment during mealtimes, whenever possible staff shall sit with the persons and eat the same foods.

(2) The use of raw milk is prohibited. Skim milk and reconstituted nonfat dry milk shall not be used for drinking purposes by children less than two and one-half years of age, except with the written permission of a physician. Dry milk and milk products may be reconstituted in the facility for drinking purposes for children over two and one-half years of age, provided the preparation, service, and storage of said milk is in accordance with the requirements of chapter 248-84 WAC relating to potentially hazardous foods. For facilities caring for severely and multiply-handicapped children, only fluid whole milk or formula shall be served to children less than eighteen months of age, except with written permission of a physician.

(3) Facilities licensed to care for seven or more persons shall record all food served. Daily menus, including all snacks required to be served, shall be prepared at least one week in advance, and dated. A schedule of mealtimes shall be established and posted. A menu shall specify a variety of foods to enable a person to consume adequate nutrients. Cycle menus, including snacks, shall provide at least two weeks of variety before repeating. Any substitutions shall be of comparable nutrient value and recorded. The menus shall be kept on file for a minimum of six months for review by the department. For facilities caring for severely and multiply-handicapped children, a general meal pattern including types of food and kinds of meal service shall be posted. A system for recording food and fluid intake of each child shall be approved by a physician and a dietitian (see subsection (8) of this section). Records of food and fluid intake of each child shall be kept in the child's file for at least one month and in the facility for at least six months.

(4) Nutrient concentrates, supplements, and modified diets (therapeutic and allergy diets) shall not be served except with the written instructions of a physician. The licensee shall obtain from the parent, responsible relative, or physician a written diet listing foods the person cannot have. The list, with the person's name, must be posted for staff to follow. For facilities caring for severely and multiply-handicapped children, all modified diets shall be planned, reviewed, and approved by a dietitian (see subsection (8) of this section).

(5) Day care and day treatment - Children in care for five to ten hours shall be served food providing at least one-third of the 1980 recommended dietary allowances set by the national research council. Children in care for more than ten hours, except children in evening care, shall be offered an additional snack. Children bringing sack meals from home shall be provided additional foods to meet the requirements. Licensees shall consult with

parents as to what additional foods should be provided. Menus shall be posted where parents can view them.

(a) All children arriving before 7:00 a.m. not having received breakfast shall be offered a breakfast providing at least one-fourth of the recommended dietary allowances.

(b) All children present shall be offered mid-morning and mid-afternoon snacks. If breakfast was served to all children, then a mid-morning snack is not required. Children arriving after school shall be offered a snack.

(c) Between-meal snacks shall be provided contributing toward the daily food needs. Snacks shall consist of two or more of the following items, served in age-appropriate serving sizes:

- (i) Milk or milk products;
- (ii) Fruit and/or vegetables;
- (iii) Fruit and/or vegetable juices that are at least fifty percent real juice;
- (iv) Whole grain or enriched breads and/or cereal products;
- (v) Protein foods (animal or vegetable).

(d) The occasional serving of party foods not meeting the requirements is not prohibited.

(6) Full-time care providers – Food shall be served in accordance with the 1980 recommended dietary allowances of the food and nutrition board, national research council, adjusted for age, sex, physical abilities, and activity of each person.

A minimum of three meals in each twenty-four hour period shall be provided. Deviation may be made from this minimum when a written request has been made to and approved in writing by the department. The time interval between the evening meal and breakfast shall be not more than fourteen hours. For facilities caring for severely multiply-handicapped children, if a child is incapable of consuming foods in the amounts and variety required to meet the recommended dietary allowances, nutritional supplements ordered by a physician must be provided to meet the 1980 recommended dietary allowances adjusted for age, weight, and height unless medically contraindicated.

(7) In facilities caring for severely and multiply-handicapped children, each child shall be weighed at least monthly and measured in length at least quarterly. Records of these measurements shall be maintained in each child's record.

(8) Facilities caring for severely and multiply-handicapped children shall use the services of a dietitian meeting the 1980 registration requirements of the American Dietetic Association to comply with WAC 388-73-077, 388-73-144 (3) and (4), and 388-73-146(6). [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-144, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-144, filed 1/5/83; 80-13-019 (Order 1540), § 388-73-144, filed 9/9/80; 78-10-006 (Order 1336), § 388-73-144, filed 9/8/78.]

WAC 388-73-146 Care of younger or severely and multiply-handicapped children. This section is applicable only to day care centers, mini-day care programs, group

care facilities, and facilities for severely and multiply-handicapped children.

(1) Children under one month of age shall not be accepted for day care in mini-day programs and day care centers.

(2) Separate, safe play areas for children under one year or children not walking are required for facilities licensed to care for thirteen or more children. Children under one year of age shall be cared for in rooms or areas separate from older children, as approved by the department with not more than ten such children to a room or area and with handwashing facilities in each such room or area or convenient thereto.

(3) Diaper-changing places shall be sanitized between use for different children or protected by a disposable covering discarded after each use. Disposable towels or clean reusable towels having been laundered between children shall be used for cleaning children. Personnel shall wash hands before and after diapering each child.

(4) Except for foster family homes, family day care homes, maternity homes, and facilities for severely and multiply-handicapped children, facilities shall use disposable diapers, a commercial diaper service, or reusable diapers supplied by the child's family. Soiled reusable diapers shall be placed without rinsing into separate cleanable covered containers provided with waterproof liners prior to transport to laundry, parent, or acceptable disposal. Diapers shall be removed from the facility at least daily. Diaper-changing procedures shall be posted at the changing areas.

(5) Toilet training shall be initiated when readiness is indicated by the child and in consultation with the child's parents or placement agency.

(6) Formula feeding of infants (under one year of age) shall be on a schedule agreed upon by the child's parent or parents, guardian, the placement agency, and the licensee. Formula feeding of severely and multiply-handicapped children shall be on a schedule agreed upon by the child's physician and the facility's dietitian (see WAC 388-73-144(8)).

(a) Feedings prepared on the premises of the facility:

(i) Any formula provided by the parent or parents, guardian, placement agency, or licensee shall be in a ready-to-feed strength or require no preparation other than dilution with water at the day care facility.

(ii) If the container in which the feeding was purchased does not include a sanitized bottle and nipple, then transfer of ready-to-feed formula from the bulk container to the bottle and nipple feeding unit must be done in a sanitary manner in the kitchen.

(iii) Bottles filled on the premises of the facility should be refrigerated immediately if not used and contents discarded if not used within twelve hours.

(iv) If bottles and nipples are to be reused by the facility, the bottles and nipples must be sanitized by boiling for five minutes or more just prior to refilling. Terminal (one step) sterilization of bottles, nipples, and formula is acceptable.

(v) When more than one bottle-fed child is in care, bottles shall be labeled with the child's name and date prepared. Milk for children requiring bottles but no

longer on formula shall be poured from the original container into sanitized, labeled bottles. Sanitized nipples only shall be used on the bottles.

(b) Feedings brought to the child care facility:

(i) Bottles brought into the facility shall have a label showing the child's name and date the bottle was prepared.

(ii) Bottles shall be refrigerated immediately upon arrival at the facility and contents discarded if not used within twelve hours.

(c) Bottles shall not be propped. Semisolid foods shall be provided for infants at between four and five months of age, upon consultation with the parent or placement agency, and/or with a physician when indicated. Infants too young or unable to sit in high chairs shall be held in a semisitting position for all feedings unless medically contraindicated. Infants six months of age or over showing a preference for holding their own bottles may do so provided an adult remains in the room and within observation range. Bottles shall be taken from the child when he or she finishes feeding or when the bottle is empty. See also WAC 388-73-144.

(7) Cribs shall be made of wood, metal, or approved plastic and have secure latching devices. Cribs purchased for the use of infants under six months of age shall have no more than two and three-eighths inches space between vertical slats. Cribs currently on hand not meeting the spacing requirement may be used provided crib bumpers or other effective methods are used to prevent the infant's body from slipping between the slats. Mattresses shall fit snugly to prevent the infant or severely and multiply-handicapped child being caught between the mattress and crib side rails. Crib mattresses shall be waterproof and easily sanitized.

(8) Children's activities - Infants and severely and multiply-handicapped children shall be provided opportunities for exercise, large and small muscle development, crawling and exploring, sensory stimulation, social interaction, and the development of communication and self-help skills. The facility shall provide safe and suitable toys and equipment for the care of infants and severely and multiply-handicapped children.

(9) Nursing consultation - Except for facilities caring for severely and multiply-handicapped children requiring a registered nurse on staff or under contract, facilities caring for five or more infants shall arrange for regular consultation to include at least one monthly on-site visit by a registered nurse trained or experienced in the care of young children. In collaboration with the agency's administrative staff, the nurse shall be responsible for advising the agency on the operation of the infant care program and on the implementation of the child health program. The nurse's name and telephone number shall be posted or otherwise available in the agency. [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-146, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-146, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-146, filed 9/8/78.]

WAC 388-73-602 Function of group care facility.

A group care facility normally serves children six years of age and older who:

(1) Need foster care but cannot ordinarily adjust to the close, personal relationships normally required by a foster family home;

(2) Need emergency placement pending more permanent planning or during temporary disruption of a current placement;

(3) Are emotionally disturbed or physically or mentally handicapped, or whose behavior is unacceptable to most foster family home parents: *Provided*, That the agency, through its own program or by the marshalling of appropriate community resources, can provide the necessary specialized services required by the group which the facility serves (except children cared for in facilities for severely and multiply-handicapped children will most frequently be younger than six years of age). [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-602, filed 2/29/84; 78-10-006 (Order 1336), § 388-73-602, filed 9/8/78.]

WAC 388-73-606 Required positions. An agency shall provide staff in accordance with the following requirements:

(1) A director responsible for the general management and administration of the agency's program. This person shall be at least twenty-one years of age and possess ability to understand the role of the agency in meeting the needs of children and to work with representatives of appropriate agencies. This person shall have had a bachelor's degree in a social science or closely allied field or shall have had a minimum of two years' experience working in a group care facility or as a foster parent with a letter of recommendation from the licensing agency and/or supervising agency.

(2) Child care staff whose primary duties are the care, supervision, and guidance of children. Such staff shall be at least eighteen years of age. Staff under twenty-one years of age shall be under the immediate supervision of staff at least twenty-one years of age.

In addition, in crisis residential centers, no less than fifty percent of the child care staff shall have completed at least two years of college and one year of working with children in a group setting. Experience may be substituted for education on a year-for-year basis. A bachelor of arts degree in behavioral or social science may be substituted for experience. The remaining child care staff shall have at least a high school diploma (or equivalent) and one year of successful experience as a foster family parent for three or more children or working with children in a group setting. Two years of college may be substituted for the required experience.

(a) Except for crisis residential centers, facilities for severely and multiply-handicapped children, and juvenile detention facilities, during the waking hours of the children there shall be at least one child care staff member on duty for every eight children or major fraction (five or more) of such number of children on the premises.

For facilities serving severely and multiply-handicapped children, there shall be a minimum of one child care staff for every four and one-half children determined on a twenty-four hour basis.

For juvenile detention facilities, there shall be a minimum of one child care staff on duty for every ten children in care during the waking hours of the children.

For regional crisis residential centers, there shall be a minimum of one child care staff on duty for every two children in care during the waking hours of the children, and a minimum of three such staff for every eight children during the sleeping hours.

For other group crisis residential centers, during the waking hours, there shall be a minimum of one child care staff for every three children in temporary protective care without duties related to the children in full-time care. During the sleeping hours, there shall be one such staff member for every five such children. If the two classes of children are combined into one group, the staff ratio applicable to the children in temporary care shall prevail.

For both types of crisis residential centers, on duty staff does not include staff sleeping on the premises.

The director and support and maintenance staff may serve as child care staff when not involved in other duties, provided the required number of child care staff is maintained.

(b) Except for crisis residential centers, whenever more than eight children are on the premises at least two adults (including at least one child care staff) shall be on duty. During nighttime hours, "on duty" staff may include staff sleeping in the group care facility and available to the children. During sleeping hours, there shall be at least one adult in proximity to the children.

(c) Agencies caring for very young children or for children presenting emotional disturbance, physical handicaps, or mental retardation shall provide such additional child care staff and professional services for the children as the department requires.

(d) Whenever only one child care staff is on duty, there shall be a second person on call.

(e) Facilities caring for severely and multiply-handicapped children shall have a registered nurse in employment or under contract in charge of nursing care. Sufficient licensed nursing staff shall be provided to meet the nursing care needs of the children.

(3) Relief staff to enable all staff to have the equivalent of two days off a week. [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-606, filed 2/29/84. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-606, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-606, filed 9/8/78.]

WAC 388-73-610 Required rooms, areas, and equipment--Group care facilities. There shall be rooms and areas of sufficient size and properly equipped to accommodate the number of children served. The following rooms or areas shall be provided:

(1) Living room. There shall be at least one comfortably furnished living room. (This subsection is not applicable to juvenile detention facilities.)

(2) Dining area. An attractive dining area shall be provided of sufficient capacity to accommodate the group comfortably. (This subsection is not applicable to juvenile detention facilities.)

(3) Staff quarters. Rooms for staff on night supervision shall be separate from but in proximity to the sleeping rooms of the children. (This subsection is not applicable to juvenile detention facilities.)

(4) Recreation area. When there are more than twelve occupants, at least one separate indoor area shall be provided, sufficient in size and location, for recreational and informal education activities.

(5) Offices. There shall be a room or area that can be used as an administrative office. Suitable offices shall be provided for social service staff. In facilities caring for fewer than thirteen children, such offices may be combined with the administrative office.

(6) Visiting area. There shall be space provided where privacy can be achieved for the use of visitors. [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-610, filed 2/29/84. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-610, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-610, filed 9/8/78.]

WAC 388-73-900 Facilities for severely and multiply-handicapped children. The rules in WAC 388-73-900 through 388-73-904 apply exclusively to facilities for severely and multiply-handicapped children. [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-900, filed 2/29/84.]

WAC 388-73-902 Services provided. In addition to educational services provided pursuant to WAC 388-73-902 and nursing services provided pursuant to WAC 388-73-606 (2)(e), the facility shall also provide or arrange for additional services, as required by the individual needs of the children in care. The services to be available include:

(1) Physicians, including surgeons, general and family practitioners, and specialists in the child's particular diagnosis on either a referral, consultative, or ongoing treatment basis;

(2) Dental care of both routine and emergent nature;

(3) Communication disorder therapy;

(4) Physical and occupational habilitation and rehabilitation therapy and devices;

(5) Recreation therapy;

(6) Psychological testing; and

(7) Transportation. [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-902, filed 2/29/84.]

WAC 388-73-904 Therapy room. Each facility for severely and multiply-handicapped children shall have a room for the delivery of physical and occupational therapy and storage of necessary devices or provide for such

care outside of the facility. [Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-904, filed 2/29/84.]

Chapter 388-76 WAC

ADULT FAMILY HOMES MINIMUM LICENSING REQUIREMENTS

WAC	
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WAC 388-76-010 Authority. The following rules are adopted pursuant to chapter 74.15 RCW and RCW 74.08.044. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-010, filed 12/18/85.]

WAC 388-76-020 Adult family homes. The rules in this chapter apply entirely to licensing adult family homes and replace and supersede any rules on licensing adult family homes which may be found in chapter 388-

73 WAC. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-020, filed 12/18/85.]

WAC 388-76-030 Definitions. Those terms in chapter 74.15 RCW shall have the same meaning when used in this chapter except as otherwise provided herein.

(1) "Abuse" means the injury, sexual use, or sexual mistreatment of an individual resident by any person under circumstances indicating the health, welfare, and safety of the resident is harmed thereby.

(a) "Physical abuse" means damaging or potentially damaging nonaccidental acts or incidents which may result in bodily injury or death.

(b) "Emotional abuse" means verbal or nonverbal actions constituting harassment.

(2) "Adult family home" means the regular family abode of a person or persons licensed to provide therein full-time family care and supervision for from one to no more than four adults who are in need of personal and special care and who are not related to the person or persons providing care.

(3) "Adult in need of personal and special care" means a person age eighteen or over who, because of developmental disability, age, or physical or mental infirmity, requires some degree of supervision or health care beyond the level of board and room only.

(4) "Ambulatory resident" means a resident physically and mentally capable of walking unaided or is capable of independent mobility with the use of a cane, crutches, a walkerette, a walker, a wheelchair, or artificial limb. It shall mean an individual able to walk or traverse a normal path to safety unaided by another individual. This definition shall not be interpreted to include an individual needing the assistance of another individual in order to get into and out of bed, to transfer to a chair or toilet, or to move from place to place.

(5) "Capacity" means the maximum number of persons permitted to be under care at a given time.

(6) "Developmentally disabled adult" means a person age eighteen or over who has been determined to be developmentally disabled by the department as defined in RCW 71.20.016.

(7) "Family care" means twenty-four-hour protective supervision and care given to an adult in need of personal and special care who has the standing of a member of the family, but not by birth, adoption, or marriage.

(8) "Infirmity" means a disability limiting normal activity but not causing an individual to require total inpatient medical or nursing care. An infirmity may be based on conditions including, but not limited to, physical handicap, mental illness, developmental disability, chemical addiction, or habituation or mental confusion, disability, or disturbance.

(9) "Neglect" means negligent treatment or maltreatment; an act or omission evincing a disregard of consequences of such a magnitude as to constitute a clear and present danger to a resident's health, welfare, and/or safety.

(10) "Other persons regularly on the premises" means relief caretakers, family members, and other relatives

and friends of the sponsor who have regular unmonitored access to the residents in care.

(11) "Premises" means the abode, other buildings, and adjoining grounds over which the adult family home sponsor has direct control.

(12) "Relative" or "related" means parent, grandparents, brother, sister, uncle, aunt, and/or first cousin by birth, marriage, or adoption.

(13) "Resident" means an adult in need of personal and special care in an adult family home who is not related to the adult family home sponsor.

(14) "Sponsor or sponsors" means a person or persons licensed to personally provide full-time family care in the person or person's own home.

(15) "To sponsor" means to act as a sponsor. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-030, filed 12/18/85.]

WAC 388-76-040 Application for license investigation. (1) Persons applying for an adult family home license under this chapter shall do so on forms and comply with procedures prescribed by the department. The application shall be made by and in the name of the person or persons who shall be the adult family home sponsor.

(2) The applicant shall submit such additional information as the department deems necessary for proper administration of this chapter. The department shall undertake such corollary investigations of applicant sponsors, relief caregivers, and members of sponsors' households as required, including accessing of criminal histories and law enforcement files.

(3) The department shall make an on-site inspection of the adult family home and premises of an applicant sponsor prior to disposition of an adult family home application. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-040, filed 12/18/85.]

WAC 388-76-050 Licensing of state employees. Department staff or any member of his or her household involved directly or in an administrative or supervisory capacity in the adult family home licensing process, or in placement of persons in a licensed adult family home, or in authorizing payment for such persons is prohibited from obtaining an adult family home license. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-050, filed 12/18/85.]

WAC 388-76-060 Limitations on licenses. Licenses shall not be issued to an applicant for both children and adults in the same family home. Exceptions may be made only if it is clearly evident care of one category does not interfere with the quality of care to be provided to the other category of clients. In such circumstances, the total number of persons in care in both categories shall not exceed the number permitted by the most stringent capacity limitation of an adult family home. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-060, filed 12/18/85.]

WAC 388-76-070 General qualifications of sponsor, persons on the premises. An adult family home sponsor shall be at least twenty-one years of age and reside in the adult family home. The sponsor and other persons regularly on the premises shall be persons of good character. The sponsor shall demonstrate he or she and other persons regularly on the premises have the understanding, language skills, physical health, emotional stability, personality, and professional skills suited to meet the physical, mental, emotional, and social needs of persons under care. The sponsor and other persons regularly on the premises shall not have been convicted of abuse and/or any crime involving physical harm to another person nor be a perpetrator of substantiated abuse. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-070, filed 12/18/85.]

WAC 388-76-090 Licensure—Denial, suspension, or revocation. (1) Disqualified applicants. Before granting a license and as a condition for continuance of a license, the department shall consider separately and jointly the ability of each applicant to sponsor an adult family home in accordance with the law and this chapter. If any one be deemed disqualified by the department in accordance with this chapter, the license may be denied, suspended, revoked, or not renewed.

(a) Any individual engaging in illegal use of drugs or excessive use of alcohol shall be disqualified.

(b) Any individual released from prison, or convicted of a felony, or any crime involving physical harm to another, or identified as a perpetrator of substantiated abuse pursuant to chapter 26.44 RCW within seven years of the date of application for the license shall be disqualified if such conviction or identification is reasonably related to the competency of the person to exercise responsibilities for home management, supervision, and full-time family care and the department determines, after investigation, that such person has not been sufficiently rehabilitated subsequent to such conviction or identification to warrant public trust.

(c) Individuals who, in this state or elsewhere, have for cause been denied a license to operate a facility for the care of children, developmentally disabled or aged adults, or a hospital, or a nursing home, or a boarding home, or have had a license to operate such a facility suspended or revoked shall be disqualified: *Provided however*, That when such person demonstrates to the department and affirmatively establishes by clear, cogent, and convincing evidence his or her ability to operate an adult family home under this chapter, the department may waive this provision and license such an individual.

(2) An adult family home license shall be denied, suspended, revoked, or not renewed for failure to comply with the provisions of chapter 74.15 RCW, and rules contained in this chapter or for any of the following reasons:

(a) Obtaining or attempting to obtain a license by fraudulent means or misrepresentation;

(b) Committing, permitting, aiding, or abetting the commission of any illegal act on the premises;

(c) Committing, permitting, aiding, or abetting assault, abuse, neglect, exploitation, cruelty or indifferent care to residents;

(d) Failure to provide adequate supervision to residents;

(e) Allowing persons unqualified by training, experience, or temperament to care for residents;

(f) Misappropriation of the property of residents;

(g) Failure or inability to exercise fiscal responsibility and accountability in respect to operation of the adult family home;

(h) Refusal to admit authorized representatives of the department, local fire protection authority, or state fire marshal to inspect the premises; and

(i) Refusal to permit authorized representatives of the department to have access to the records relating to the operation of the adult family home or to permit authorized representatives to interview residents. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-090, filed 12/18/85.]

WAC 388-76-100 License fees. At the time of the application for or renewal of a license, the licensee shall pay such license fee as may have been established by the department under RCW 43.20A.055. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-100, filed 12/18/85.]

WAC 388-76-110 Discrimination prohibited. The sponsor shall comply with federal and state statutory and regulatory requirements regarding nondiscrimination. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-110, filed 12/18/85.]

WAC 388-76-130 Persons subject to licensing. Persons are subject to licensing who provide or intend to provide twenty-four-hour family care in their own home for adults in need of personal and special care who are not their relatives in the following numbers:

(1) One through four developmentally disabled adults; or

(2) One through four state assistance recipients; or

(3) Three through four persons not developmentally disabled or recipients of state assistance. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-130, filed 12/18/85.]

WAC 388-76-140 Persons not subject to licensing. In addition to those persons exempt from the licensing requirements as provided in chapter 74.15 RCW, the following persons are not required to be licensed:

(1) Persons caring for an adult in need of personal and special care in that adult's own home whether related or not; and

(2) Persons providing family care in their own home for one or two nondevelopmentally disabled adults not related to them and for whom the department has not authorized care (chapter 74.15 RCW; RCW 18.20.020; 74.08.044). [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-140, filed 12/18/85.]

WAC 388-76-160 Capacity. (1) An adult family home shall be licensed for no more than four adults. There shall be no more than four adults unrelated to the sponsor requiring full-time care on the premises at one time.

(2) No licensed adult family home may provide care for more than two persons suffering mental or physical handicaps of such severity as to require nursing care, and then only if the sponsor is qualified by training and/or experience to provide proper care and the person's treatment is under the supervision of a physician. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-160, filed 12/18/85.]

WAC 388-76-170 Sponsors' resources. The sponsor or sponsors shall have sufficient resources to maintain their own family and home without the payments made for the persons in care. If both sponsors in a two-sponsor home or the single sponsor in a one-sponsor home are employed outside the home, the department must give written approval for placement there. Approval will be based on justification that the sponsor will be able to provide adequate twenty-four-hour care to the residents. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-170, filed 12/18/85.]

WAC 388-76-180 Sponsor absence from home. (1) The sponsor or sponsors shall have a department-approved plan for provision of care for residents during any absence of the sponsor from the home.

(2) The sponsor or sponsors shall not place residents in another home temporarily or otherwise without the approval of the department and guardian or responsible relative of the person under care (RCW 74.15.030). [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-180, filed 12/18/85.]

WAC 388-76-190 Effect of local ordinances. Licenses are issued or denied on the basis of applicant's compliance with the department's minimum licensing requirements. The enforcement of local ordinances such as zoning regulations and local building codes is the responsibility of appropriate local officials (RCW 74.15.030). [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-190, filed 12/18/85.]

WAC 388-76-200 Fire safety. (1) Every room used by persons under care, unless provided with two separate doors or one door leading directly to the outside, shall have a window opening freely and of sufficient size and free of obstructions so as to be readily available for emergency escape or rescue.

(2) Every occupied area shall have access to at least one exit not passing through rooms or spaces subject to being locked or blocked from the opposite side.

(3) No space shall be used for residential purposes accessible only by ladder, folding stairs, or a trap door.

(4) Every bathroom door lock shall be designed to permit the opening of the locked door from the outside in an emergency.

(5) Every closet door latch shall be such that the door can be opened from the inside.

(6) No stove or heater shall be so located as to block escape in case of malfunctioning and ensuing fire.

(7) Flammable, combustible, or poisonous material shall be stored away from exits and in areas not accessible to persons under care.

(8) Open flame devices, cooking appliances, and other similar products capable of igniting clothing shall not be left unattended or used in such a manner which could result in accidental ignition of clothing.

(9) Portable space heaters are prohibited.

(10) An adult family home shall have in effect and available to all relief caretakers a written plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge when necessary. All persons in care shall be instructed in emergency evacuation procedures. Drills shall be conducted during the first week of each new admission and at bimonthly intervals thereafter to test equipment and practice procedure. A log of dates and times of fire drills shall be maintained by the sponsor.

(11) There shall be readily available an approved, operating 2A-rated fire extinguisher. Except for facilities licensed prior to June 3, 1983, an approved five pound or larger all purpose A.B.C. fire extinguisher will be acceptable. (Where local fire authorities require installation of a different type or size of fire extinguisher, the requirement of the local authority shall prevail.)

(12) An approved automatic smoke detector in working order shall be located in proximity to the area or areas where persons under care sleep. At a minimum, there will be one smoke detector in working order on each floor of a multilevel home.

(13) Smoke detectors and fire extinguishers shall be continuously maintained in proper working order.

(14) If questions arise concerning fire danger, the local fire protection authority shall be consulted and its recommendations followed.

(15) An adult family home located in a rural area where there is no public fire district shall affiliate with whatever fire safety organization is available. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-200, filed 12/18/85.]

WAC 388-76-220 Corporal punishment and physical restraints. Corporal punishment and physical restraints are prohibited. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-220, filed 12/18/85.]

WAC 388-76-240 Resident's records and information. Records and information concerning each person in care shall be maintained in such a manner as to preserve confidentiality. Records giving the following information on each person under care shall be maintained at the licensed adult family home:

(1) Identifying information, including name, birthdate, and dates of admission, absences, and discharge.

(2) Names, addresses, and telephone numbers of next-of-kin or other persons to be contacted in case of emergency.

(3) Health assessment at time of placement and subsequent revisions.

(4) Written consent (or court order) for providing medical care and emergency surgery, except as such care is otherwise authorized by law.

(5) Daily care plan including treatments, medications, observations, examinations, and physician's orders.

(6) Upon admission, an inventory of personal belongings. Inventory changes will be recorded and dated with a copy to resident and guardian or responsible relative, if any.

(7) Names, addresses, and telephone numbers of persons taking a person under care temporarily out of the adult family home.

(8) A summary upon discharge by the person responsible for the total plan of care, instructions given to the person providing continuing care, and a record of any referrals directed toward continuity of care.

(9) Appropriate information if the adult has died including the time and date of death, apparent cause of death, appropriate notification of the physician and relevant others (including the coroner if necessary), and the disposition of the body and personal effects. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-240, filed 12/18/85.]

WAC 388-76-250 Reporting of illness, death, injury, epidemic, or adult abuse. The sponsor shall report to the persons indicated the following events.

(1) To the department, next-of-kin, and interested friend or relative identified in the care plan any serious injury, trauma, or death of a person under care as soon as possible but no later than twenty-four hours after occurrence.

(2) To the local public health officer any occurrence of food poisoning or communicable disease as required by the state board of health.

(3) To the department evidence of abuse or neglect immediately by phone or in person with a written follow-up report within five days. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-250, filed 12/18/85.]

WAC 388-76-260 Reporting changes in circumstances. Adult family home sponsors shall report to the department changes in circumstances which might constitute grounds for reclassification of the home as to category of license, continued eligibility for license, or major changes in the license including the following:

(1) Changes in sponsor's address or location and phone number (license is valid only for address indicated on the license).

(2) Changes in the maximum number and range of care of persons licensee wishes to serve as compared to specifications in the license.

(3) The death, retirement, or incapacity of a licensee. (A license is valid only for the person named on the license.)

(4) Marriage or divorce of a sponsor or other change in household composition and relief caregiver affecting eligibility for license or number of persons that may be served.

(5) Occurrence of a fire on licensed premises within twenty-four hours.

(6) Major structural changes or damage to premises from any causes, and plans for major remodeling. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-260, filed 12/18/85.]

WAC 388-76-280 Transportation. When a sponsor provides transportation for residents:

(1) The vehicle shall be in safe operating condition. The driver shall have a current driver's license.

(2) Sponsor or other driver shall carry auto insurance including liability and medical coverage.

(3) Seat belts or other appropriate safety devices shall be provided for and used by all passengers. The number of passengers shall not exceed the vehicle's seating capacity. Buses approved by the state patrol shall not be required to be equipped with seat belts. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-280, filed 12/18/85.]

WAC 388-76-290 Clothing. Sponsors are responsible to arrange for clothing for the persons under care. Clothing shall be neat, seasonable, and of such quality and design as to foster self-respect. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-290, filed 12/18/85.]

WAC 388-76-300 Personal hygiene. Sponsors are responsible to provide or arrange for items needed for good grooming and personal hygiene for persons under care. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-300, filed 12/18/85.]

WAC 388-76-310 Training. Sponsors are responsible for keeping themselves informed of the policies and the rules contained in this chapter. Completion of approved training for sponsors shall be required prior to licensure in the absence of documentation assuring the sponsor is qualified to provide care. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-310, filed 12/18/85.]

WAC 388-76-320 Site. An adult family home shall be located on a well-drained site free from hazardous conditions, excessive noise, dust, smoke or odors, and be accessible to other facilities necessary to carry out the program. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-320, filed 12/18/85.]

WAC 388-76-325 Telephone. There shall be at least one operating nonpay telephone on the premises accessible to residents for emergency incoming or outgoing use at all times. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-325, filed 12/18/85.]

WAC 388-76-330 Safety and maintenance. (1) The premises and equipment shall be maintained in a clean and sanitary condition, free of hazards, and in good repair. Steps shall be provided with handrails as determined necessary by the department. Emergency lighting devices, such as flashlights, in working order shall be available and easily accessible to caretakers and residents.

(2) Sponsors shall be able to gain rapid access to any bedroom, toilet room, shower room, bathroom, or other room occupied by residents should emergency need arise. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-330, filed 12/18/85.]

WAC 388-76-340 Water safety. (1) Residents shall not be permitted to use swimming or other pools or hot tubs or spas, etc., on the premises without supervision.

(2) Swimming and other pools shall be inaccessible to persons in care when not in use.

(3) Hot tubs, spas, etc., shall be inaccessible when not in use. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-340, filed 12/18/85.]

WAC 388-76-350 Firearms. Firearms, if any, shall be kept in locked storage accessible only to authorized persons. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-350, filed 12/18/85.]

WAC 388-76-360 Storage. (1) Suitable space shall be provided and used for the storage of clothing and personal possessions of residents and for supplies, records and files, and bedding used in adult family home management.

(2) Cleaning supplies, toxic substances, poisons, aerosols, and items bearing warning labels shall be stored so as to be inaccessible to persons with limited mental capacity. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-360, filed 12/18/85.]

WAC 388-76-370 Bedrooms. (1) Hallways, kitchens, living rooms, dining rooms, and unfinished basements shall not be used as bedrooms. Every bedroom shall be an outside room permitting entrance of natural light.

(2) Windows designated for escape and/or ventilation shall open and close freely. Window screens must be of such design that escape is not hindered and are adequate to prevent entrance of flies and other insects.

(3) Separate sleeping quarters shall be furnished for each sex.

(4) Multiple occupancy bedrooms shall provide not less than seventy square feet per occupant of floor area exclusive of closets. There shall be not less than thirty-six inches laterally between beds. Single occupancy bedrooms shall provide at least eighty square feet of floor space. There shall be no more than two residents to a bedroom.

(5) For each resident there shall be a bed at least thirty-six inches wide with a clean, firm mattress, pillow, sheets, blankets, and pillowcases. Pillows shall be covered with waterproof material or be of a washable

type. Waterproof mattress covers shall be provided for incontinent persons.

(6) The upper bunk of doubledeck beds are prohibited for use by residents.

(7) Bedding shall be clean; sheets and pillowcases shall be laundered weekly.

(8) Residents may not share a bedroom with persons under eighteen years of age unless approved by the department.

(9) Residents may not share a bedroom with the sponsor or any member of the sponsor's family.

(10) Only rooms having unrestricted direct access to hallways, corridors, living rooms, day rooms, or common use areas shall be used as bedrooms.

(11) Only ambulatory residents and/or residents able to negotiate the adult family home fire escape system from other than ground floor level shall be assigned to other than ground floor level bedrooms. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-370, filed 12/18/85.]

WAC 388-76-380 Kitchen facilities. Adult family homes shall have facilities for the proper storage, preparation, and service of food. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-380, filed 12/18/85.]

WAC 388-76-390 Laundry. The adult family home shall store soiled linen and clean linen separately. Unless laundry is sent out, or bedding and/or clothing are provided and laundered by responsible relatives or interested others, the adult family home shall have adequate operational laundry and drying equipment. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-390, filed 12/18/85.]

WAC 388-76-400 Toilets, lavatories, and bathing facilities. (1) There shall be at least one indoor flush-type toilet, one bathing facility, and one lavatory with hot and cold or tempered running water not to exceed one hundred twenty degrees Fahrenheit.

(2) Toilet and bathing facilities shall provide for privacy for persons of the opposite sex.

(3) There shall be a lavatory in each room containing a toilet or in an adjacent common-use area.

(4) All bathing facilities shall have a conveniently located grab bar unless other safety measures, such as nonskid pads, are approved by the department.

(5) Soap and individual towels or disposable towels or other hand-drying devices shall be easily accessible. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-400, filed 12/18/85.]

WAC 388-76-410 Lighting. All areas shall be appropriately lighted by natural or artificial means when in use. Light fixtures shall be located to provide for the comfort and safety of the persons under care. Lighting intensities shall be at least fifteen foot candles for all rooms and areas used for care, except for food service

areas, which shall be thirty foot candles. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-410, filed 12/18/85.]

WAC 388-76-420 Pest control. The premises shall be kept free from rodents, flies, cockroaches, and other insects. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-420, filed 12/18/85.]

WAC 388-76-430 Sewage and liquid wastes. Sewage and liquid wastes shall be discharged into a public sewer system or into an independent sewage system approved by the local health authority or department. Discharge of sewage or liquid wastes directly on the ground, into bodies of water, or directly into ground water is prohibited. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-430, filed 12/18/85.]

WAC 388-76-440 Water supply. A private water supply must be approved by the local health authority or department. Nonpotable water on the premises shall be labeled to avoid use. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-440, filed 12/18/85.]

WAC 388-76-450 Temperature. Temperature within the adult family home shall be maintained at not less than sixty-eight degrees Fahrenheit during waking hours, and at not less than sixty degrees Fahrenheit during sleeping hours. Use of portable space heaters is prohibited. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-450, filed 12/18/85.]

WAC 388-76-460 Ventilation. The facility shall be ventilated to assure health and comfort of the persons under care. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-460, filed 12/18/85.]

WAC 388-76-465 Resident rights—Services to be provided. (1) Insofar as a general or specific nuisance or a danger to the individuals or others is not created, each resident shall have, in addition to any rights not specifically withheld by law, the following rights:

(a) To be informed or to have an agent, designated by the resident, informed of his or her rights and the policies of the adult family home at the time of admission. A written copy of rights and policies shall be provided to each resident or designated agent.

(b) To be treated in a manner that respects his or her individual identity and human dignity and fosters constructive self-esteem.

(c) To be notified thirty days in advance if he or she requires transfer for medical or nursing care or for his or her welfare or that of other residents, except as prohibited by Titles XVIII, XIX or XX of the Social Security Act, unless an emergency condition requires immediate transfer, or there is failure to comply with written policy of the adult family home or to ensure orderly transfer or discharge. The notice of transfer or discharge and discharge planning shall be documented in the resident's record.

(d) To associate and communicate privately with persons of his or her choice; to send and receive uncensored correspondence through the mail; to have reasonable access to a telephone both to make and to receive personal calls.

(e) To manage personal financial affairs unless such person has been adjudicated to be incompetent in a court proceeding directed to that particular issue or pursuant to law.

(f) To retain and use personal clothing and possessions unless to do so would infringe upon the rights of other residents.

(g) To refuse to perform services for the facility unless these services are included in a plan of care.

(h) To be assured privacy for visits with relatives or guests.

(i) To voice grievances and recommend changes in policies and services to the sponsor and/or to outside representatives of his or her choice free from restraint, interference, coercion, discrimination, or reprisal.

(j) To be informed of phone numbers and addresses of the licensing agency or appropriate advocacy group or groups.

(k) To meet with and participate in activities of social, religious, and community groups at his or her discretion.

(l) To be free from physical, chemical, and psychological restraints unless authorized by law.

(m) To be free from exploitation, assault, abuse, and neglect.

(n) To have information contained in resident health records kept confidential with access only to authorized personnel and the department.

(o) To be given timely notice of changes in admission or retention policy and procedure.

(2) Each resident shall have at least one comfortable pillow and adequate, clean bedding. Clean sheets, a pillow case, towels and washcloths shall be provided as needed and at least each week.

(3) A resident shall be regularly observed for changes in physical, mental, and emotional functioning. When observations reveal the resident has need for services unavailable in the adult family home, the sponsor or designee shall arrange for the transfer of the resident.

(4) Care services shall be conducted so as to attain or maintain each resident's highest degree of functioning possible and compatible with individual safety and welfare. The following services shall be provided when a resident requires such services:

(a) General health supervision, which means provision of the following services in accordance with a resident's particular needs including:

(i) To encourage a resident to self-administer medically prescribed drugs and treatment;

(ii) To encourage a resident to follow any medically prescribed modified diet, rest, or activity regimen;

(iii) To encourage and assist a resident to keep appointments for health care services, e.g., physicians, dentists, home health care services or clinics;

(iv) Encourage and assist a resident to see his or her health care practitioner if the resident manifests signs

and symptoms of an illness or abnormality for which medical diagnosis and treatment seem indicated.

(b) Reminding and/or guidance, supervision, or assistance to a resident in:

(i) Personal hygienic care, dressing, grooming, and other activities;

(ii) Maintenance of functional aids or equipment, such as glasses, hearing aids, canes, crutches, walker, or wheelchair;

(iii) Maintenance of clothing and other personal effects;

(iv) Maintenance of personal living quarters in a manner conducive to safety and comfort.

(c) Encouraging, guiding, or assisting a resident to participate in social, recreational, diversional, vocational, church, or other activities within the family home and the community in accordance with his or her interests, tolerance, and abilities.

(5) Whenever a resident is believed to be ill or injured, the health care practitioner or other individual designated by the resident shall be notified immediately. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-465, filed 12/18/85.]

WAC 388-76-470 Health care plan. All adult family homes providing direct care shall maintain current written medical policies and procedures including first aid, care of minor illnesses, action to be taken in event of medical emergencies, and general health practices. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-470, filed 12/18/85.]

WAC 388-76-480 First aid. (1) An adult family home sponsor shall have current basic first-aid training and cardiopulmonary resuscitation training. Verification of completion dates shall be maintained by the adult family home sponsor.

(2) First-aid supplies, as needed to conform with first-aid policies and procedures, and a first-aid manual shall be readily available.

(3) There shall be written medical emergency policies and procedures readily available in the adult family home. [Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-480, filed 12/18/85.]

WAC 388-76-490 Medications controlled by the sponsor. (1) All medications shall be kept in an orderly fashion in locked storage or otherwise made inaccessible to unauthorized persons and shall be refrigerated when so required.

(2) External medications shall be stored separately (separate compartments) from internal medications.

(3) Medications must be stored in the medication's original container.

(4) Medications shall be disbursed only on the written consent of the competent resident or other person having authority by court order to approve medical care.

(5) Only the sponsor or responsible designee shall deliver, disburse, or have access to medications except for self-administered medications as provided for in WAC 388-76-500.

(6) Prescription and nonprescription medications shall be disbursed only as specified on the prescription label or as otherwise authorized by a physician or other person legally authorized to prescribe medication.

"As needed" medications shall be approved by a physician or registered nurse prior to disbursement.

(7) A record shall be kept of all medications disbursed.

(8) Unused medications shall be properly disposed of. [Statutory Authority: RCW 74.08.044, 86-01-079 (Order 2319), § 388-76-490, filed 12/18/85.]

WAC 388-76-500 Self-administration of medications. Self-administration of medications by a resident shall be in accordance with the following:

(1) The resident shall be at least capable of administering his or her own medications properly with minimal guidance and assistance. If a resident requires minimal guidance or assistance, it shall be appropriately provided.

(2) A resident's medications shall be kept so the medications are not available to other residents.

(3) There shall be written policies and procedures for sponsors providing minimal guidance and assistance to residents with medications, when a resident requires such guidance and assistance. [Statutory Authority: RCW 74.08.044, 86-01-079 (Order 2319), § 388-76-500, filed 12/18/85.]

WAC 388-76-520 Infection control, communicable disease. (1) Persons with a communicable disease in an infectious stage shall not provide care or supervision in an adult family home.

(2) Each sponsor and other adult persons having regular contact with residents shall have a tuberculin skin test, by the Mantoux method, upon employment or licensing unless medically contraindicated.

(a) Persons whose TB skin test is positive (ten millimeters or more induration) shall have a chest x-ray within ninety days following the skin test.

(b) Routine periodic retesting or x-ray (biennial or otherwise) after the entry testing is not required.

(c) An entry test shall not be required of persons whose TB skin test has been documented as negative (less than ten millimeters) within the last two years nor shall routine periodic retesting or x-ray (biennial or otherwise) be required of such persons.

(2) A record of skin test results, x-rays, or exemptions to such will be kept in the adult family home. [Statutory Authority: RCW 74.08.044, 86-01-079 (Order 2319), § 388-76-520, filed 12/18/85.]

WAC 388-76-530 Food services. (1) Food served by each adult family home shall be planned to meet the needs of residents, taking into consideration the residents' ages, developmental levels, individual preferences, individual metabolic differences, cultural background, and any handicapping condition. To promote a socializing environment during mealtimes, residents shall sit with the sponsor and eat from the same menu unless special diet and resident preference precludes it.

(2) The use of raw milk is prohibited.

(3) Nutrient concentrates, supplements, and modified diets (therapeutic and allergy diets) shall be served only on the written approval of a health care practitioner. The sponsor shall obtain from the resident, responsible relative, or physician a written list of any foods the resident cannot have. The list, with the resident's name, must be on file and the food not served to the resident.

(4) Food shall be served in accordance with the 1980 recommended dietary allowances of the Food and Nutrition Board, National Research Council, adjusted for age, sex, physical abilities, and activity of each person.

(5) A minimum of three meals in each twenty-four-hour period shall be provided. Deviation may be made from this minimum when a written request has been made to and approved in writing by the department. The time interval between the evening meal and breakfast shall be not more than fourteen hours.

(6) Residents may participate in food preparation provided food preparation is a part of a department-approved plan. Incompetent persons shall be supervised when in the kitchen. [Statutory Authority: RCW 74.08.044, 86-01-079 (Order 2319), § 388-76-530, filed 12/18/85.]

Chapter 388-81 WAC

MEDICAL CARE--ADMINISTRATION--GENERAL

WAC

388-81-043	Dispute conference—Provider.
388-81-044	Interest penalties—Providers.
388-81-052	Receipt of resources without giving adequate consideration.

WAC 388-81-043 Dispute conference—Provider.

(1) Any certified provider of medical care services, except for nursing homes which are governed by WAC 388-96-904, who is found liable for receipt of excess payments pursuant to RCW 74.09.220 or otherwise served with notice that repayment of excess benefits is due pursuant to RCW 74.09.220, has a right to a dispute conference.

(2) A dispute conference is defined as an informal administrative review for the purpose of resolving provider disagreement(s) with a finding of liability for receipt of excess payments.

(3) Provider requests for a dispute conference must be made within twenty working days of receipt of final notice that repayment is due; the conference will be conducted within thirty working days of receipt of request and decisions rendered within fifteen working days of the conference. Extensions of timeliness may be granted by the department in extraordinary circumstances.

(4) The conference will be chaired by the director, or assistant director, division of medical assistance, if program policy is in dispute; otherwise the conference will be chaired by a contracts officer, office of contracts management. The decision as to who will chair the dispute conference shall be the responsibility of the director, division of medical assistance or his designee.

(5) The dispute conference shall be the final level of appeal within the department. [Statutory Authority: RCW 74.08.090. 84-02-053 (Order 2061), § 388-81-043, filed 1/4/84.]

WAC 388-81-044 Interest penalties--Providers. (1) Any certified provider of medical care services, except for nursing homes which are governed by WAC 388-96-310, who is found liable for receipt of excess payments pursuant to RCW 74.09.220 or otherwise served with notice that repayment of excess benefits is due pursuant to RCW 74.09.220, will be assessed interest on the amounts of the excess benefits or payments.

(2) Pursuant to RCW 74.09.220, interest will be assessed at the rate of one percent each month from the date upon which payment was made to the date upon which repayment is made to the state. Interest does not apply when the excess benefits or payments were obtained as a result of errors made by the department.

(3) Interest amounts will be clearly identified in all overpayment communications. A daily interest accrual amount will also be identified. Daily interest will accrue until the day immediately preceding the day the full repayment check is mailed to the state. If repayment is made through the recoupment process (payments are withheld from current bills until the overpayment amount is met) interest will accrue to the date recoupment is finalized. [Statutory Authority: RCW 74.08.090. 84-02-053 (Order 2061), § 388-81-044, filed 1/4/84.]

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.

(e) Compensation includes:

(i) All money, real or personal property, food, shelter, or services received by the individual:

(A) At or after the time of transfer in exchange for the resource if the compensation was provided pursuant to a binding (legally enforceable) agreement in effect at the time of transfer; or

(B) Prior to the actual transfer if they were provided pursuant to a binding (legally enforceable) agreement whereby the eligible individual would transfer the resource or otherwise pay for such item.

(ii) The payment or assumption of a legal debt owed by the individual in exchange for the resource.

(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. 84-04-068 (Order 2073), § 388-81-052, filed 2/1/84; 82-23-002 (Order 1897), § 388-81-052, filed 11/4/82; 82-10-017 (Order 1776), § 388-81-052, filed 4/28/82.]

**Chapter 388-82 WAC
MEDICAL CARE--PROGRAM DESCRIBED--
LIMITATIONS**

WAC
388-82-115 Special categories eligible for medical assistance.

388-82-130 Medical care provided in bordering cities.

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.

(d) Earned income tax credits (EITC) must be considered as income for purposes of this subsection.

(4) Current recipients of Title II, SSA benefits who:

(a) Were concurrent recipients of Title II and SSI benefits; and

(b) Became ineligible for SSI benefits and/or state supplementary payments after April 1, 1977; and

(c) Would be eligible for SSI benefits but for Title II cost-of-living benefit increases under Public Law 94-566, section 503, shall be categorically eligible for medical assistance (MA). Any subsequent OASDI cost-of-living benefit increase shall be disregarded for eligibility. For institutionalized recipients, the amount subsequently is considered in the cost of institutional care.

(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.

(7) Individuals who are denied AFDC cash payments solely by reason of recovery of overpayment shall be eligible for Medicaid as categorically needy.

(8) A child under five years of age, born after September 30, 1983, and who meets the income and resource requirements of AFDC financial assistance shall be eligible for Medicaid as categorically needy.

(9) Family units which are terminated from AFDC financial assistance solely because of the loss of the thirty dollars plus one-third or the thirty-dollar income

exemptions shall remain categorically eligible for medical assistance for nine calendar months beginning with the month of ineligibility for AFDC provided that:

(a) The family unit was terminated on or after October 1, 1984.

(b) Family units terminated prior to October 1, 1984, may be eligible for nine months of medicaid beginning with the month of application if they meet the following conditions:

(i) The family unit must apply for medical assistance.

(ii) The family unit must demonstrate that, if the income exemptions had been applied, the family unit would have been eligible for each month for AFDC from the time of termination of AFDC to the time of application for medical assistance.

(iii) The family unit must disclose any health insurance coverage in effect for members of the assistance unit.

(10) A child born to a woman eligible for and receiving medical assistance on the date of the child's birth, shall be eligible for medical assistance on the date of birth and shall remain eligible for a period of one year if:

(a) The child remains a member of the mothers household; and

(b) The mother remains eligible for medical assistance; and

(c) The child was born on or after October 1, 1984.

(11) Family units which become ineligible for AFDC financial assistance as a result (wholly or partly) of the collection or increased collection of child or spousal support shall be eligible for medical assistance for four months beginning with the month of such ineligibility; provided that the family unit:

(a) Received AFDC financial assistance in at least three of the six months immediately preceding the month of such ineligibility; and

(b) Became ineligible for AFDC during or after the month of August 1984 and prior to October 1, 1988.

(12) Other pregnant women who meet the income and resource requirements of AFDC financial assistance shall be eligible for medical assistance as categorically needy.

(13) Individuals denied AFDC or SSI cash assistance solely because of deeming of income of alien sponsors. [Statutory Authority: RCW 74.08.090. 85-16-046 (Order 2262), § 388-82-115, filed 7/31/85; 85-11-032 (Order 2231), § 388-82-115, filed 5/15/85; 85-05-015 (Order 2205), § 388-82-115, filed 2/13/85; 84-04-069 (Order 2074), § 388-82-115, filed 2/1/84; 83-17-005 (Order 1995), § 388-82-115, filed 8/5/83; 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 388-82-130 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, Hermiston, Hood River, Rainier, Milton-Freewater, and Astoria, Oregon. [Statutory Authority:

RCW 74.08.090, 84-02-055 (Order 2063), § 388-82-130, filed 1/4/84; 81-16-033 (Order 1685), § 388-82-130, filed 7/29/81; 81-10-014 (Order 1646), § 388-82-130, filed 4/27/81.]

Chapter 388-83 WAC
MEDICAL CARE--ELIGIBILITY

WAC

388-83-010	Alternative sources for medical care.
388-83-012	Assignment of rights.
388-83-017	Social Security number.
388-83-028	Eligibility factors for special categories.
388-83-036	Monthly maintenance standard—Applicant not in own home.
388-83-130	Eligibility—Special situations.
388-83-200	Community options program entry system (COPES) project. (See WAC 388-15-600.)
388-83-210	Community alternatives program (CAP) project.

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) 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).

(3) Supplementation of medical services shall meet the following limitations:

(a) Supplemental services:

(i) Shall be services beyond those covered by the medical assistance programs;

(ii) Shall not be required, implied or otherwise, by the provider in order for the recipient to receive services covered by the medical assistance program.

(b) Funds for payment of the supplemental services from a source other than the recipient are not considered as income available to the recipient for eligibility purposes if:

(i) The funds are paid directly to the provider; and

(ii) The funds do not at any time come under the control of the recipient. [Statutory Authority: RCW 74.08.090, 84-15-060 (Order 2126), § 388-83-010, filed 7/18/84; 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 388-83-012 Assignment of rights. To be eligible for medical assistance an applicant shall assign to the state of Washington, department of social and health services, all right, title, and interest to any medical care support available pursuant to an order of a court or administrative agency and any third party payments for medical care. [Statutory Authority: RCW 74.08.090,

84-23-027 (Order 2168), § 388-83-012, filed 11/14/84.]

WAC 388-83-017 Social Security number. (1) As a condition of eligibility each applicant for or recipient of medical assistance shall be required to:

(a) Furnish Social Security numbers for all persons for whom assistance is being requested or,

(b) Apply for Social Security numbers if they are unknown or have not been issued.

(c) In the case of a child born to a woman eligible for and receiving medical assistance, on the date of the child's birth, medical assistance may be provided for the child before application for a Social Security number for a period of one year if:

(i) The child remains a member of the mother's household, and

(ii) The mother remains eligible for medical assistance.

(2) The applicant/recipient has the responsibility to report promptly and accurately any new Social Security number within twenty days of its receipt.

(3) Assistance will not be denied, delayed or terminated pending issuance of Social Security numbers if the applicant/recipient provides verification that he/she has met the requirement in subsection (1)(b) of this section.

(4) If the applicant or recipient fails or refuses to comply with the requirement in subsection (1) of this section for each person included in the assistance unit, eligibility for such person(s) cannot be determined and they shall be excluded from the assistance unit and denied medical assistance.

(5) The department shall assist the applicant in obtaining a Social Security number by referring him or her to the nearest Social Security office and by furnishing to the client from department records any verification requested by the Social Security administration.

(6) These rules shall be effective April 1, 1985. [Statutory Authority: RCW 74.08.090, 85-03-072 (Order 2194), § 388-83-017, filed 1/17/85; 81-10-014 (Order 1646), § 388-83-017, filed 4/27/81; Order 1056, § 388-83-017, filed 9/25/75.]

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.

(d) Earned income tax credits (EITC) must be considered as income for purposes of this subsection.

(4) Current recipients of Title II, SSA benefits who:

(a) Were concurrent recipients of Title II and SSI benefits; and

(b) Became ineligible for SSI benefits and/or state supplementary payments after April 1977; and

(c) Would be eligible for SSI benefits but for Title II cost-of-living benefit increases under Public Law 94-566, section 503, shall be categorically eligible for medical assistance (MA). Any subsequent OASDI cost-of-living benefit increase shall be disregarded for eligibility. For institutionalized recipients, the amount subsequently is considered in the cost of institutional care.

(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. 85-16-046 (Order 2262), § 388-83-028, filed 7/31/85; 84-04-069 (Order 2074), § 388-83-028, filed 2/1/84; 83-17-005 (Order 1995), § 388-83-028, filed 8/5/83; 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 388-83-036 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, adult residential treatment facility (ARTF) or group home shall be the cost standard of the facility plus a specified CPI. This monthly standard 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. 84-17-072 (Order 2142), § 388-83-036, filed 8/15/84; 84-07-016 (Order 2085), § 388-83-036, filed 3/14/84; 81-16-033 (Order 1685), § 388-83-036, filed 7/29/81.]

WAC 388-83-130 Eligibility--Special situations.

(1) 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.

(2) The AFDC earned income exemption of thirty dollars plus one-third of remainder does not apply to individuals initially applying solely for medical assistance.

(3) 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.

(4) 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. [Statutory Authority: RCW 74.08.090. 84-02-055 (Order 2063), § 388-83-130, filed 1/4/84; 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 388-83-200 Community options program entry system (COPES) project. (See WAC 388-15-600.)

(1) Eligible persons for the COPES project are individuals age eighteen and over who:

(a) Meet the Title XIX categorically needy eligibility requirements for SSI related institutionalized individuals. See chapter 388-95 WAC. Income and resources of parents or spouses will not be considered available when determining eligibility or participation for a COPES applicant or recipient;

(b) Are assessed by the department to require the level of care provided in a skilled nursing facility, intermediate care facility or an intermediate care facility for the mentally retarded;

(c) Have a plan of care approved by the department and the total cost for this plan of care including the MNIL for one person, is less than ninety percent of the department's state-wide average nursing home rate; and

(d) Are able and choose to live at home with community support services, or in a congregate care facility, or in a licensed adult family home.

(2) Available income of the COPES participant living at home shall be allocated as follows:

(a) An amount equal to the medically needy income level for one person shall be protected for the maintenance needs of the recipient; and

(b) For the maintenance needs of the participant's spouse or family at home, an additional amount shall be protected equal to the medically needy income level for the number of dependents in the home less the income of the dependents;

(c) Amounts for incurred medical expenses not subject to third party payment shall be protected, including:

(i) Medicare and other health insurance premiums, deductibles, or coinsurance charges; and

(ii) Necessary medical care recognized under state law but not covered under Medicaid;

(d) Income remaining after deductions in (a),(b), and (c) of this subsection will be the participation amount for COPES services. (See WAC 388-15-620.)

(3) Income of a COPES participant living in an adult family home or congregate care facility shall be allocated as for other eligible categorically needy persons in similar living situations. [Statutory Authority: RCW 74.08.090. 85-13-063 (Order 2243), § 388-83-200, filed 6/18/85. Statutory Authority: RCW 74.08.044. 84-12-033 (Order 2103), § 388-83-200, filed 5/30/84. Statutory Authority: RCW 74.08.090. 83-18-030 (Order 2020), § 388-83-200, filed 8/31/83; 83-08-024 (Order 1954), § 388-83-200, filed 3/30/83.]

WAC 388-83-210 Community alternatives program (CAP) project. (1) Eligible persons for the CAP project are individuals who:

(a) Meet the requirements and are eligible for services of the division of developmental disabilities and are disabled according to SSI rules.

(b) Meet the Title XIX categorically needy eligibility requirements for SSI related institutionalized individuals. See chapter 388-95 WAC. Income and resources of parents or spouses will not be considered available when determining eligibility or participation for a CAP applicant or recipient.

(c) Are assessed by the department to require the level of care provided in an intermediate care facility for the mentally retarded (IMR).

(d) Have a plan of care approved by the department and the total cost for this plan of care including the medically needy income level for one person is eighty percent or less than the cost of IMR care as demonstrated in the client's services budget.

(e) Are able and choose to live in the community with community support services according to a CAP service plan.

(2) Available income of a CAP participant shall be allocated as follows:

(a) An amount equal to the medically needy income level for one person shall be protected for the maintenance needs of the recipient; or

(b) For an individual with a spouse or dependent children at home, an amount shall be protected equal to the medically needy income level adjusted for the appropriate family size;

(c) Amounts for incurred medical expenses not subject to third party payment shall be protected, including:

(i) Medicare and other health insurance premiums, deductibles, or coinsurance charges; and

(ii) Necessary medical care recognized under state law but not covered under Medicaid;

(d) Income remaining after deductions in (a), (b), and (c) of this subsection will be the participation amount for CAP services.

(3) Income of a CAP participant living in an adult family home shall be allocated as for other eligible categorically needy persons in similar living situations. [Statutory Authority: RCW 74.08.090. 85-13-063 (Order 2243), § 388-83-210, filed 6/18/85; 84-04-066 (Order 2071), § 388-83-210, filed 2/1/84.]

**Chapter 388-84 WAC
MEDICAL CARE--APPLICATION**

WAC
388-84-110 Application--Disposition.

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) Approval, denial, or withdrawal of the application for medical assistance, medical care services, or the limited casualty program will follow cash assistance standards and criteria in chapter 388-38 WAC. [Statutory Authority: RCW 74.08.090. 86-01-002 (Order 2314), § 388-84-110, filed 12/5/85; 82-01-001 (Order 1725), § 388-84-110, filed 12/3/81; 81-10-014 (Order 1646), § 388-84-110, filed 4/27/81.]

**Chapter 388-85 WAC
MEDICAL CARE--CERTIFICATION**

WAC
388-85-105 Certification of eligibility.
388-85-110 SSI/state supplement termination.
388-85-115 Denied SSI applicants.

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.

(d) For AFDC cash assistance due solely to the loss of the thirty dollars plus one-third or the thirty dollar income exemption, medical assistance shall continue for nine calendar months beginning with the month of ineligibility.

(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. 84-23-027 (Order 2168), § 388-85-105, filed 11/14/84; 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 categorically needy or 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. 84-02-055 (Order 2063), § 388-85-110, filed 1/4/84; 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 as categorically needy or 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. 84-02-055 (Order 2063), § 388-85-115, filed 1/4/84; 82-01-001 (Order 1725), § 388-85-115, filed 12/3/81.]

Chapter 388-86 WAC

MEDICAL CARE--SERVICES PROVIDED

WAC

388-86-005	Services available to recipients of medical assistance.
388-86-008	Patient overutilization.
388-86-020	Dental services.
388-86-030	Eyeglasses and examinations.
388-86-040	Hearing aids.
388-86-050	Inpatient hospital care.
388-86-080	Oxygen service.
388-86-085	Patient transportation.
388-86-090	Physical therapy.
388-86-095	Physicians' services.
388-86-097	Respiratory therapy services.
388-86-098	Speech therapy services.
388-86-112	Physical medicine and rehabilitation evaluation and treatment.
388-86-120	Medical care services (GAU).

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, certified registered nurse practitioner services, 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; chiropractic services; dental services to EPSDT recipients; drugs and pharmaceutical supplies; eyeglasses and examination; hearing aids and examinations; nurse midwife services; oxygen; physical therapy services; private duty nursing services; rural health clinic 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) 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.

(5) Detoxification of an acute alcoholic condition will be provided only in a certified detoxification center or in a general hospital with certified detoxification facilities.

(6) Adult dental services are not provided.

(7) Where evidence is obtainable to establish medical necessity, as defined in WAC 388-80-005, the department shall approve the request if the recipient or provider submits sufficient objective clinical information (including, but not limited to, a physiological description of the disease, injury, impairment or other ailment; pertinent laboratory findings; x-ray reports; and patient profiles).

(8) A request for medical services may be denied by the department if the requested service is not medically necessary as defined by WAC 388-80-005, is generally regarded by the medical profession as experimental in nature or as unacceptable treatment, unless the recipient can demonstrate through sufficient objective clinical evidence the existence of particular circumstances which render the requested service medically necessary.

(9) The department shall approve or deny all requests for medical services within fifteen days of the receipt of the request, except that if additional justifying information is necessary before a decision can be made, the request shall be neither approved nor denied but shall be returned to the provider within five working days of the original receipt. If additional justifying information is not returned within thirty days of the date it was returned to the provider, then the original request shall be approved or denied. However, if such information is returned to the department, the request shall be acted upon within five working days of the receipt of the additional justifying information.

(10) Whenever the department denies a request for medical services the department shall, within five working days of the decision, give written notice of the denial to the recipient and the provider. In order to fully inform the recipient, the notice shall state:

(a) The specific reasons for the department's conclusion to deny the requested service.

(b) If a fair hearing is requested, a medical assessment other than that of the person or persons involved in making the original decision may be obtained at the expense of the department of social and health services, and instructions on how to obtain such assessment.

(c) The recipient has a right to a fair hearing if the request is made within 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.

(11) 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.

(12) The department has the authority to require a second opinion and/or consultation prior to the approval of any elective surgical procedure.

(13) 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, 84-02-052 (Order 2060), § 388-86-005, filed 1/4/84; 83-17-073 (Order 2011), § 388-86-005, filed 8/19/83; 83-01-056 (Order 1923), § 388-86-005, filed 12/15/82; 82-10-062 (Order 1801), § 388-86-005, filed 5/5/82; 82-01-001 (Order 1725), § 388-86-005, filed 12/3/81; 81-16-033 (Order 1685), § 388-86-005, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-005, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-005, filed 10/9/80; 78-06-081 (Order 1299), § 388-86-005, filed 6/1/78; 78-02-024 (Order 1265), § 388-86-005, filed 1/13/78; Order 994, § 388-86-005, filed 12/31/74; Order 970, § 388-86-005, filed 9/13/74; Order 911, § 388-86-005, filed 3/1/74; Order 858, § 388-86-005, filed 9/27/73; Order 781, § 388-86-005, filed 3/16/73; Order 738, § 388-86-005, filed 11/22/72; Order 680, § 388-86-005, filed 5/10/72; Order 630, § 388-86-005, filed 11/24/71; Order 581, § 388-86-005, filed 7/20/71; Order 549, § 388-86-005, filed 3/31/71, effective 5/1/71; Order 453, § 388-86-005, filed 5/20/70, effective 6/20/70; Order 419, § 388-86-005, filed 12/31/69; Order 264 (part); § 388-86-005, filed 11/24/67.]

WAC 388-86-008 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) After an individual has selected a physician and a pharmacy and the selections have been confirmed by the department, a change of physician or pharmacy may not be requested for a minimum of one hundred eighty days with the following exceptions:

(a) If the individual moves to a new residence which would be considered outside the normal service area of the selected physician and pharmacy, he/she may request to designate different providers in the area of his/her new residence.

(b) Whenever the selected physician or pharmacy refuses to continue as a designated provider, the individual will be notified that he/she has thirty days to select a new physician or pharmacy.

(4) 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.

(5) 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.

(6) When the individual has been restricted under the provisions of this section for a period of two years, the department will conduct a review of that person's medical service utilization to determine whether the restriction should be terminated. The review will include contact with the primary physician for comment and recommendation. The department will then determine whether the individual shall:

(a) Remain restricted, with an annual review thereafter; or

(b) Have the restriction terminated and be subject to periodic review of medical service utilization. If utilization is subsequently determined to be excessive or inappropriate the individual may again be restricted under the provisions of this section. [Statutory Authority: RCW 74.08.090. 85-09-002 (Order 2220), § 388-86-008, filed 4/4/85; 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 388-86-020 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 is required,

(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. 86-02-031 (Order 2321), § 388-86-020, filed 12/27/85; 82-23-005 (Order 1900), § 388-86-020, filed 11/4/82; 81-10-015 (Order 1647), § 388-86-020, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-020, filed 10/9/80; 79-06-034 (Order 1402), § 388-86-020, filed 5/16/79; 78-02-024 (Order 1265), § 388-86-020, filed 1/13/78; Order 1162, § 388-86-020, filed 10/13/76; Order 1112, § 388-86-020, filed 4/15/76; Order 938, § 388-86-020, filed 5/23/74; Order 738, § 388-86-020, filed 11/22/72; Order 696, § 388-86-020, filed 6/29/72; Order 581, § 388-86-020, filed 7/20/71; Order 453, § 388-86-020, filed 5/20/70, effective 6/20/70; Order 385, § 388-86-020, filed 8/27/69; Order 264 (part), § 388-86-020, filed 11/27/67.]

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 for examinations, fitting services and materials shall be made on the basis of rates established by the department or through HMO or optical supplier contracts.

(2) Only one refraction and one pair of glasses per eligible recipient will be provided during a twelve-month period, except for eye services provided under the EPSDT program, or in extenuating circumstances when medically necessary.

(3) Prior authorization is required for medical eye care procedures and for special eyeglass services including but not limited to, contact lenses, low vision aids, executive bifocals and trifocals, artificial eyes and two pair of glasses in lieu of bifocal or trifocal lenses.

(4) The choice of frames is limited to frames listed in the current division of medical assistance numbered memoranda on that subject. Frames are not provided for cosmetic effect or psychological support.

(5) Sunglasses, photochromic or varalux type lenses and orthoptics therapy are not provided.

(6) 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. 86-02-031 (Order 2321), § 388-86-030, filed 12/27/85; 85-18-065 (Order 2279), § 388-86-030, filed 9/4/85; 82-23-005 (Order 1900), § 388-86-030, filed 11/4/82; 81-16-033 (Order 1685), § 388-86-030, filed 7/29/81; 80-13-020 (Order 1542), § 388-86-030, filed 9/9/80; 79-01-002 (Order 1359), § 388-86-030, filed 12/8/78; 78-06-087 (Order 1301), § 388-86-030, filed 6/2/78; Order 1233, § 388-86-030, filed 8/31/77; Order 1203, § 388-86-030, filed 4/1/77; Order 1112, § 388-86-030, filed 4/15/76; Order 994, § 388-86-030,

filed 12/31/74; Order 738, § 388-86-030, filed 11/22/72; Order 385, § 388-86-030, filed 8/27/69; Order 264 (part), § 388-86-030, filed 11/24/67.]

WAC 388-86-040 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.

(iii) The recipient is responsible for purchase of batteries, any attachments and replacements.

(b) A one-time repair of a state purchased or privately owned hearing aid when covered by a ninety-day warranty. After expiration of the warranty, the recipient is responsible for repairs and for purchase of batteries, any attachments and replacements.

(c) For exceptions to this subsection see WAC 388-87-027.

(2) Group screening for hearing aids is not permitted under the program.

(3) Requests for hearing aids on behalf of nursing home residents must be reviewed by a department nursing care consultant.

(4) Individuals under age eighteen must be referred to the crippled children's service conservation of hearing program.

(5) Individuals twenty-one years of age and over may sign a waiver statement declining the medical evaluation for religious or personal beliefs that preclude consultation with a physician. [Statutory Authority: RCW 74.08.090, 85-18-064 (Order 2278), § 388-86-040, filed 9/4/85; 84-02-055 (Order 2063), § 388-86-040, filed 1/4/84; 83-10-077 (Order 1958), § 388-86-040, filed 5/4/83; 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 388-86-050 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) Prior approval is required for nonemergent hospital admissions.

(3) The division of medical assistance will certify hospital admission, length of stay and/or services for all recipients.

(4) Department authorization for inpatient hospital care, in hospitals excepted from the diagnosis-related group based pricing system, for eligible individuals shall be limited to the number of days established at the 50th percentile in the 1983 edition 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. When hospitalization of a recipient exceeds the number of days as limited by this subsection, the hospital shall submit to the local medical consultant a request with adequate justification and signed by the attending physician within sixty days of final service for approval of the extension.

(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 categorically needy and medically needy individuals under age twenty-one and age sixty-five and older.

(d) Medicaid payments will be made for care in an approved psychiatric facility for categorically needy and medically needy individuals under age twenty-one.

(5) Hospitalization for the treatment of acute and chronic renal failure shall be provided, except that the department shall pay only deductibles and coinsurance for a recipient who is a Medicare beneficiary and who is hospitalized for such treatment or for kidney transplant.

(6) Nonemergent hospital admissions shall not be made on Friday or Saturday for scheduled surgery on Monday. The attending physician may admit the recipient on Sunday to accomplish the necessary preoperative work-up.

(7) Approval for hospitalization of a recipient shall be based on the recipient's need for semi-private accommodations and reimbursement made at the multiple occupancy rate regardless of accommodations provided by the hospital. Special rates may be established for recipients covered by the Involuntary Treatment Act. Semi-private accommodations shall mean not less than two nor more than a four-bed room.

(8) The department covers medically necessary services provided in a hospital in connection with the care or treatment of teeth, jaws, or structures directly supporting the teeth if the procedure requires hospitalization in connection with the provision of such services. Services covered under this subsection must be furnished under the direction of a physician or dentist. [Statutory

Authority: RCW 74.08.090. 86-02-031 (Order 2321), § 388-86-050, filed 12/27/85; 85-13-061 (Order 2241), § 388-86-050, filed 6/18/85; 84-20-100 (Order 2157), § 388-86-050, filed 10/3/84; 83-17-073 (Order 2011), § 388-86-050, filed 8/19/83; 83-05-050 (Order 1949), § 388-56-050, filed 2/16/83; 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 388-86-080 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.

(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.

(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. 86-02-031 (Order 2321), § 388-86-080, filed 12/27/85; 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.

(d) All nonemergent medical transportation requires prior approval.

(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) Air ambulance transportation may be provided when:

(a) Necessary medical treatment is not available locally; and

(b) 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.

(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.

(5) Transportation by taxi may be provided when medically necessary. "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.

(7) Nonprofit organizations may provide transportation for recipients in accordance with the following guidelines:

(a) Group or shared ride service must be utilized when transportation can be scheduled in advance and when the group or shared ride service is available through the nonprofit organization.

(b) Transportation using specialized equipment, such as wheelchair lifts, may be used when the medical necessity is clearly demonstrated and the physical condition of the recipient is such that any less specialized means of transportation is inadvisable.

(c) Transportation must be approved by the department.

(8) Transportation to medically necessary and covered services by private automobile owned by recipient is payable at rates established by the department under the following conditions:

(a) Recipient's own automobile must be the least expensive available means suitable to the recipient's medical need. Other transportation will be presumed available if the location of medical services is not more than twenty miles from the recipient's home or if public transportation is available;

(b) Transportation shall not be provided outside of the local community unless necessary medical care is not available locally, and transportation outside of the local medical community shall be to a reasonable and least

costly location where providers are able and willing to provide the necessary and covered medical services.

(9) Transportation by intercity bus may be provided.

(10) Commercial air transportation may be provided when:

(a) Transportation is medically necessary; and

(b) Necessary medical treatment is not available locally; and

(c) The physical condition of the recipient is such that the use of any other method of transportation is inadvisable. [Statutory Authority: RCW 74.08.090. 86-02-031 (Order 2321), § 388-86-085, filed 12/27/85; 85-05-024 (Order 2207), § 388-86-085, filed 2/14/85; 84-20-098 (Order 2155), § 388-86-085, filed 10/3/84; 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. (1) Physical therapy, other than that provided in a hospital as part of inpatient treatment or in a nursing home as part of a nursing home treatment program, may be authorized only when such therapy:

(a) Will avoid the need for hospitalization or nursing home care, or

(b) Will assist the recipient in becoming employable, or

(c) Is medically indicated in unusual circumstances and is requested by the attending physician, and

(d) Is performed by a registered physical therapist or physiatrist.

(2) Physical therapy services require prior approval.

(3) Physical therapy is not provided under the limited casualty program. [Statutory Authority: RCW 74.08.090. 86-02-031 (Order 2321), § 388-86-090, filed 12/27/85; 84-20-102 (Order 2159), § 388-86-090, filed 10/3/84; 81-16-033 (Order 1685), § 388-86-090, filed 7/29/81; 80-13-020 (Order 1542), § 388-86-090, filed 9/9/80; 78-02-024 (Order 1265), § 388-86-090, filed 1/13/78; Order 1202, § 388-86-090, filed 4/1/77; Order 1151, § 388-86-090, filed 9/8/76; Order 911, § 388-86-090, filed 3/1/74; Order 781, § 388-86-090, filed 3/16/73; Order 474, § 388-86-090, filed 8/19/70; Order 385, § 388-86-090, filed 8/27/69; Order 303, §

388-86-090, filed 9/6/68; Order 264 (part), § 388-86-090, filed 11/24/67.]

WAC 388-86-095 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 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.

(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 nonemergent surgical procedures require prior approval unless otherwise excepted.

(6) Minor surgery and diagnostic procedures performed in a physician's office do not require prior approval.

(7) A recipient of public assistance is not required to obtain medical care in the county of his residence.

(8) For limitations on out-of-state physicians' services see WAC 388-86-115.

(9) Cataract surgery will be considered medically necessary when the following conditions exist:

(a) When vision is 20/200 in the worse eye.

(b) When vision is worse than 20/70, distant vision, and J-5 with +3.50, near vision, in better eye.

(c) When extenuating circumstances, such as employment requirements, need to drive, are present, the vision is worse than 20/40, distant vision, in the better eye.

(d) Other unusual circumstances.

(10) Contact lenses would be considered medically necessary for certain medical conditions of the eyes, i.e., keratoconus, recurrent corneal erosions, other medical conditions where visual acuity either cannot be corrected with spectacles or there is a true therapeutic effect, i.e., transparent bandage effect, and when suffering from high refractive errors, over +6 or over -6 diopters. [Statutory Authority: RCW 74.08.090. 86-02-031 (Order 2321), § 388-86-095, filed 12/27/85; 85-04-021 (Order 2197), § 388-86-095, filed 1/30/85; 84-02-052 (Order 2060), § 388-86-095, filed 1/4/84; 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 388-86-097 Respiratory therapy services. (1) Respiratory therapy services including nebulizers or other similar equipment shall be available when prescribed by a physician as necessary to permit the recipient to remain in his own home or in a skilled nursing home.

(2) Respiratory therapy services may be provided through contract to include necessary equipment and routine visits by a respiratory therapist, by loan of state owned respiratory therapy equipment or by visit of an independent respiratory therapist.

(3) For recipients eligible for part B Medicare benefits, necessary equipment for respiratory therapy shall be purchased and made available on a loan basis.

(4) Recipients living in areas covered by contract shall have approved respiratory therapy services available only through the contract source. [Statutory Authority: RCW 74.08.090. 86-02-031 (Order 2321), § 388-86-097, filed 12/27/85; Order 1077, § 388-86-097, filed 12/24/75.]

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;

(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.

(3) Speech and language therapy is not provided under the limited casualty program. [Statutory Authority: RCW 74.08.090. 86-02-031 (Order 2321), § 388-86-098, filed 12/27/85; 82-10-062 (Order 1801), § 388-86-098, filed 5/5/82; 82-01-001 (Order 1725), § 388-86-098, filed 12/3/81; 81-16-033 (Order 1685), § 388-86-098, filed 7/29/81; 78-02-024 (Order 1265), § 388-86-098, filed 1/13/78; Order 1202, § 388-86-098, filed 4/1/77.]

WAC 388-86-112 Physical medicine and rehabilitation evaluation and treatment. (1) Physical medicine and rehabilitation inpatient evaluation and individualized treatment may be authorized for a period not exceeding four weeks at a time when the following conditions are met:

(a) The person suffers from severe disabilities including but not limited to motor and/or cognitive deficits.

(b) Physical medicine and rehabilitation treatment would potentially enable the person to obtain a greater degree of self-care and/or independence.

(c) Prior approval of the office of the medical director is obtained.

(2) Extensions of the treatment intervals may be authorized by the office of the medical director if adequate justification is received from the physical medicine and rehabilitation facility. [Statutory Authority: RCW 74.08.090. 85-17-037 (Order 2272), § 388-86-112, filed 8/15/85; 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 388-86-120 Medical care services (GAU). A recipient of a continuing general assistance grant 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 additional limitations.

(1) Mental health services will be provided only in community mental health centers and to the extent that the recipient meets the client definitions and priorities established in the Community Mental Health Act.

(2) Eligibility for medical care services shall commence with the date of certification for general assistance. There shall not be retroactive certification for medical care received prior to the initial date of eligibility for the general assistance program. [Statutory Authority: RCW 74.08.090. 85-21-062 (Order 2295), § 388-86-120, filed 10/16/85; 84-07-015 (Order 2084), § 388-86-120, filed 3/14/84; 83-17-006 (Order 1996), § 388-86-120, filed 8/5/83; 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**

WAC	
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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, chiropractic, 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:

- 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.

(3) Conditions of eligibility:

(a) When a provider has a restricted professional license or previously has been terminated, excluded, or suspended from the Medicare/Medicaid programs, eligibility will be authorized only if the department has determined that the violations that led to the sanction or license restriction are not likely to be repeated. In making this determination, the department will consider, among other factors, whether the provider has been convicted of offenses related to the delivery of medical care which were not considered during the development of the previous sanction by Medicare, Medicaid, or state or local licensing authorities.

(b) The department may not reinstate in the medical assistance program, a provider that has been suspended from Medicare or suspended at the direction of the department of health and human services until DHHS notifies the department that the provider may be reinstated.

(c) Nothing in this subsection shall preclude the department from denying authorization if, in the opinion of the medical director, division of medical assistance, the provider constitutes a danger to the health and safety of recipients. [Statutory Authority: RCW 74.08.090. 85-04-022 (Order 2198), § 388-87-005, filed 1/30/85; 83-17-073 (Order 2011), § 388-87-005, filed 8/19/83; 82-10-062 (Order 1801), § 388-87-005, filed 5/5/82; 82-01-001 (Order 1725), § 388-87-005, filed 12/3/81; 81-16-032 (Order 1684), § 388-87-005, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-005, filed 4/27/81; 80-13-020 (Order 1542), § 388-87-005, filed 9/9/80; 78-10-077 (Order 1346), § 388-87-005, filed 9/27/78; Order 1233, § 388-87-005, filed 8/31/77; Order 1112, § 388-87-005, filed 4/15/76; Order 994, § 388-87-005, filed 12/31/74; Order 930, § 388-87-005, filed 4/25/74; Order 739, § 388-87-005, filed 11/22/72; Order 386, § 388-87-005, filed 8/27/69; Order 264 (part), § 388-87-005, filed 11/27/67.]

WAC 388-87-007 Medical provider agreement. The medical care program is offered through the use of certified providers of medical services. To be certified, a provider must be licensed to provide said services, must meet the conditions of eligibility defined in WAC 388-87-005, and must submit a form to the department stating his/her intention to participate in the program according to the terms of this section. This form and participation by the provider according to the terms of this section shall constitute the agreement between the department and the provider. Certified providers shall be issued a provider number by the department which is authorization to participate in the medical care program. Providers who participate in the program by providing services to recipients of medical assistance and billing the department for such services are bound by the rules and standards set forth in this section and as issued by the department.

(1) Providers shall keep all records necessary to disclose the extent of services the provider furnishes to recipients of medical assistance.

(2) Providers shall furnish the department with any information it may request regarding payments claimed by the provider for furnishing services to recipients of medical assistance.

(3) The provider shall bill according to instructions issued by the department and accept payment for services according to the schedule of maximum allowances, the drug formulary and other applicable maximum payment levels or schedules. Such payment shall constitute complete remuneration for such services.

(4) The provider shall refund to the recipient any payment received directly from the recipient for services for which the department is responsible for payment. The department's responsibility for services provided in a

retroactive period, as defined in WAC 388-80-005, is limited to cases in which the cost of the services has not been otherwise paid. However, it is appropriate, but not required, that a provider refund to a recipient any payment received in a retroactive period, if he/she later becomes eligible for medicaid on a retroactive basis. Such refund would be for services for which the department would otherwise be responsible for payment. After refunding to the recipient, the provider may bill the department. Upon receipt of a medical coupon that identifies the patient as eligible on a retroactive basis, the provider may not bill the recipient for any unpaid charges for covered services remaining from the retroactive period.

(5) Each billing invoice submitted to the department by a provider shall contain the following language and verification: "I hereby certify under penalty of perjury, that the material furnished and service rendered is a correct charge against the state of Washington; the claim is just and due; that no part of the same has been paid and I am authorized to sign for the payee; and that all goods furnished and/or services rendered have been provided without discrimination on the grounds of race, creed, color, national origin or the presence of any sensory, mental or physical handicap."

(6) Providers shall render all services without discrimination on the grounds of race, color, sex, religion, national origin, creed, marital status, or the presence of any sensory, mental or physical handicap.

(7) The department may suspend or withdraw the provider's number and authorization to participate in the medical care program upon thirty days written notice to the provider. The thirty-day notice shall not be required if a provider is convicted of a criminal offense related to participation in the Medicare/Medicaid program, if his/her license is suspended or revoked, if federal funding is revoked, or if in the opinion of the medical director, division of medical assistance the quality of care provided is such that the health and safety of recipients is endangered.

(8) Providers shall render all services according to the applicable sections of the Revised Code of Washington, the Washington Administrative Code, federal regulations and program instructions issued by the department.

(9) Nothing in this section shall preclude the department and any provider or provider group or association from jointly negotiating or entering into another form of written agreement for provision of medical care services to eligible recipients.

(10) The provider must meet the disclosure of ownership requirements of WAC 388-87-008. [Statutory Authority: RCW 74.08.090. 85-04-022 (Order 2198), § 388-87-007, filed 1/30/85; 83-17-095 (Order 2007), § 388-87-007, filed 8/23/83; 83-10-077 (Order 1958), § 388-87-007, filed 5/4/83; 80-13-020 (Order 1542), § 388-87-007, filed 9/9/80.]

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 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) Payment for medically necessary transportation services, provided by nonprofit organizations may be based on the operating costs incurred in providing the service but shall not exceed the rates established by the department. [Statutory Authority: RCW 74.08.090. 85-05-024 (Order 2207), § 388-87-010, filed 2/14/85; 83-17-006 (Order 1996), § 388-87-010, filed 8/5/83; 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 388-87-012 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 prior approval 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.

(6) Psychological evaluation is provided in connection with medical diagnosis and treatment. Treatment by a psychologist is not provided. [Statutory Authority: RCW 74.08.090. 86-02-031 (Order 2321), § 388-87-012, filed 12/27/85; 85-13-061 (Order 2241), § 388-87-012, filed 6/18/85; 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 388-87-025 Services requiring approval. All services to recipients on medical assistance, limited casualty program, and continuing general assistance are subject to review and approval. [Statutory Authority: RCW 74.08.090. 86-02-031 (Order 2321), § 388-87-025, filed 12/27/85; 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.

(1) The following services require prior approval:

- (a) Nonemergent surgical procedures – see WAC 388-86-095;
- (b) Prosthetic devices and durable medical equipment and nonreusable medical equipment – see WAC 388-86-100;
- (c) All out-of-state air transportation;
- (d) Allergy testing;
- (e) Apnea monitoring;
- (f) Drugs not listed in the departmental formulary or any single prescription exceeding the maximum limits established – see WAC 388-91-020;
- (g) Home ventilator therapy;
- (h) Medical eye care services;
- (i) Nonemergent hospital admissions – see WAC 388-86-050 and 388-87-070;
- (j) Nonemergent medical transportation – see WAC 388-86-085;
- (k) Orthodontic treatment – see WAC 388-86-027;
- (l) Out-of-state medical care which is not available within Washington state;
- (m) Physical medicine, rehabilitation and treatment – see WAC 388-86-112;
- (n) Physical therapy services – see WAC 388-86-070;

(o) Private duty nursing services – see WAC 388-86-071;

(p) Speech therapy, both the initial evaluation and subsequent therapy – see WAC 388-86-098;

(q) Total parenteral/enteral nutritional therapy.

(2) The division of medical assistance 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.

(3) On an exception basis approval may be granted, for services listed in this section, after the service(s) has been rendered. [Statutory Authority: RCW 74.08.090. 86-02-031 (Order 2321), § 388-87-027, filed 12/27/85; 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 388-87-035 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. Except that, payment for patient transportation provided by nonprofit organizations may be made on the basis of the operating costs incurred in providing that transportation but shall not exceed the rates established by the department.

(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.

(8) Vehicles utilized by nonprofit organizations to provide transportation services shall be operated and equipped in accordance with minimum requirements established by the division of medical assistance and other applicable statutes, ordinances, and regulations. [Statutory Authority: RCW 74.08.090, 85-05-024 (Order 2207) § 388-87-035, filed 2/14/85; 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 388-87-070 Payment--Hospital inpatient services. (1) The department will pay hospital costs of eligible persons who are patients in general hospitals when such hospitals meet the criteria as defined in RCW 70.41.020.

Recipients must have been approved as financially and medically eligible for hospitalization. They are:

- (a) Categorically needy recipients;
- (b) Limited casualty program recipients;
 - (i) Medically needy recipients;
 - (ii) Medically indigent recipients;
- (c) Recipients of continuing general assistance.

(2) Except for excluded services, payment for hospital inpatient services is determined according to a diagnosis related group based pricing system. Payment amounts are based upon historical average costs per discharge, adjusted for case mix and indexed to the payment period. Payment for cases meeting the criteria of cost outlier is at eighty percent of the rates determined according to the method in subsection (4)(a) of this section.

(3) Certain services are excluded from the diagnosis related group based pricing system. These exclusions include:

(a) Rehabilitation, pain treatment, psychiatric, alcoholism treatment and detoxification, and long term hospital level care services.

(b) Services provided to patients occupying beds utilized by the Fred Hutchinson Cancer Research Center bone marrow transplant program.

(c) Services at children's hospitals.

(4) Payment for excluded services is determined as follows:

(a) Reimbursable cost of excluded services in subsection (3)(a) and (b) of this section is determined by multiplying charges in allowable revenue codes by the ratio of hospital commission approved operating expenses to total rate setting revenue.

(b) Payment rates for children's hospitals are determined by computing the ratio of indexed historical hospital commission approved operating expenses to total rate setting revenue. This ratio is multiplied times allowable charges.

(5) For all administrative days, days of hospitalization in which medical necessity is below that appropriate for acute hospital care, the departments maximum reimbursement level will be the adjusted state-wide average per diem rate for skilled nursing facilities.

(6) For dates of admission beginning October 1, 1985, payment rates established in accordance with subsections (2), (4) and (5) of this section are reduced for services provided to persons eligible for the medically indigent component of the limited casualty program and recipients of general assistance-unemployable. Hospitals are grouped according to the percentage of total rate setting revenue comprising medical assistance, medicare, bad debt, charity, and other contractual adjustments and rates are reduced according to the following table.

Hospital Group	Percent Medicare, Medicaid, Bad Debt, Charity and other Contractual Adjustments of Total Rate Setting Revenue	Percentage Reduction in Payment Rate
1	60.00 or more*	20.0
2	50.00 - 59.99	40.0
3	less than 50.00	60.0

*Plus psychiatric hospitals

(7) Payment rates or amounts to hospitals established by this section will be adjusted as necessary to remove the impacts of ownership changes and revaluation of assets, including recapture of depreciation as necessary, in accordance with section 2314 of Public Law 98-369 and related federal regulations, guidelines, instructions, and state plan requirements. [Statutory Authority: RCW 74.08.090, 85-23-034 (Order 2307), § 388-87-070, filed 11/15/85; 85-17-033 (Order 2266), § 388-87-070, filed 8/15/85; 85-03-073 (Order 2195), § 388-87-070, filed 1/17/85; 84-21-078 (Order 2162), § 388-87-070, filed 10/18/84; 84-11-070 (Order 2099), § 388-87-070, filed 5/22/84; 83-17-096 (Order 2015), § 388-87-070, filed 8/23/83; 83-08-022 (Order 1951), § 388-87-070, filed 3/30/83; 83-03-016 (Order 1937), § 388-87-070, filed 1/12/83; 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 388-87-072 Payment--Hospital outpatient services. (1) Payment shall be made by the department for medically necessary hospital outpatient services.

(2) For hospital outpatient services provided prior to July 1, 1985, except for nonallowable revenue codes, reimbursable costs will be determined by the application of the ratio of hospital commission approved operating expenses and total rate setting revenue.

(3) For hospital outpatient services provided on or after July 1, 1985, payment shall be determined as follows:

(a) For hospital outpatient laboratory, x-ray, and allowable therapy (physical, speech and hearing) services payment will be the lesser of billed charges or the fee listed in the Division of Medical Assistance Schedule of Maximum Allowances.

(b) For all other hospital outpatient services, except for nonallowable revenue codes, reimbursable costs will be determined by the application of the ratio of hospital commission approved operating expenses and total rate setting revenue. [Statutory Authority: RCW 74.08.090. 85-17-033 (Order 2266), § 388-87-072, filed 8/15/85.]

WAC 388-87-080 Payment--Oxygen. Payment shall be made by the department for medically necessary oxygen and related supplies according to WAC 388-86-080. [Statutory Authority: RCW 74.08.090. 86-02-031 (Order 2321), § 388-87-080, filed 12/27/85; 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 388-87-090 Payment--Physical therapy and related services. (1) The department will pay for the services of a registered physical therapist or a qualified speech pathologist or audiologist when all conditions outlined in WAC 388-86-012, 388-86-090 and 388-86-098 have been met.

(2) The department will not pay for physical therapy or speech therapy as a separate billing when provided as part of inpatient hospital services.

(3) The department will not pay for physical therapy or speech therapy as a separate billing when provided as part of the nursing home treatment program. [Statutory Authority: RCW 74.08.090. 84-20-102 (Order 2159), § 388-87-090, filed 10/3/84; 78-02-024 (Order 1265), § 388-87-090, filed 1/13/78; Order 782, § 388-87-090, filed 3/16/73; Order 264 (part), § 388-87-090, filed 11/24/67.]

WAC 388-87-095 Payment--Physician service. (1) General provisions.

(a) 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.

(e) EPSDT screenings, as described in WAC 388-86-027, shall be limited to:

(i) A maximum of five screenings for children under the age of one year;

(ii) An average of one screening annually by a provider for children between the ages of one and twenty-one years. [Statutory Authority: RCW 74.08.090. 84-07-017 (Order 2083), § 388-87-095, filed 3/14/84; 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.]

Chapter 388-88 WAC

MEDICAL CARE--NURSING HOME CARE

WAC

388-88-050 Adequate nursing home care.

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.

(a) The facility must make arrangements for:

(i) Physician services, including certification/recertification, plan of care, and visits;

(ii) Special consultant services, laboratory services, x-ray services, and prescription services.

(b) The facility must provide:

(i) Nursing care and supervision, including provision of twenty-four hour RN staffing when deemed necessary by the provider or the department;

(ii) Personal hygiene: Baths, shampoos, routine nail care, shaves, oral care, and skin care;

(iii) Health records for each resident;

(iv) Services relating to meeting medically related psychosocial needs, ordered by the physician when appropriate;

(v) Except as provided to residents of ICF/MR's, ancillary care services as defined in RCW 74.46.020(2), including services provided by activities specialists, audiologists, mental health professionals, social workers, speech pathologists, physical therapists, and occupational therapists;

(vi) A nutritionally adequate and varied diet including supplementary nourishments and vitamins;

(vii) A safe and comfortable environment;

(viii) Safeguards to assure resident rights and personal possessions.

(2) The nursing home is obligated to provide equipment and supplies essential for the provision of adequate health care as required in subsection (1) of this section plus items including but not limited to:

(a) Beds, mattresses, bedrails, footstools, traction equipment, cradles, footboards, and trapeze bars;

(b) Resident gowns, linen, nonpersonal laundry, and isolation supplies;

(c) Pitchers, basins, bedpans, urinals, commodes, and elevated toilet seats;

(d) Materials and supplies used for care of incontinent residents;

(e) Soaps, lotions, shampoos, toothpaste, mouthwash, and powder;

(f) Alcohol sponges, applicators, tongue depressors, thermometers, band-aids, facial tissue, and swabs;

(g) Appropriate equipment used for patient positioning, protective support, or restraints;

(h) Approved nonlegend antacid suspensions and tablets, antiseptics, laxatives, antidiarrheal medications, analgesics, salt or sugar substitutes;

(i) Clinitest tape or tablets, guaiac tests, mineral oil, vaseline, or other lubricants;

(j) Medication supplies including gloves, hypodermic syringes, needles, and intravenous setups;

(k) Supplies for specimen collections, irrigations, and enemas;

(l) Nonreusable (one-time use) or disposable (time-limited use) supplies and devices used in providing nursing home care, including nonsurgical dressings (e.g., decubiti), suction supplies, urethral catheters, and drainage systems, feeding tubes and bags except as provided under subsection (3)(e) of this section;

(m) Ice bags and K pads;

(n) Walkers, wheelchairs, wheelchair accessories and wheelchair positioning devices, canes, and crutches not required for exclusive full-time use by a patient for a permanent disability;

(o) Emergency tray, emergency aspirator, emergency oxygen and supplies for its administration;

(p) Infrared lamps and weighing scales.

(3) The exceptions listed below will be reimbursed in accordance with WAC 388-86-005, 388-87-025, and 388-87-027:

(a) Aids to mobility including wheelchairs and wheelchair positioning devices required for the exclusive use of a patient (WAC 388-86-100) for a permanent disability;

(b) Supplies for intermittent catheterization programs;

(c) Commercial formula, when used as the only source of nutrition;

(d) Surgical dressings limited to primary dressings required as the result of a surgical procedure performed by a physician;

(e) The following supplies or devices replacing all or part of the function of a permanently impaired or malfunctioning internal body organ:

(i) Colostomy (and other ostomy) bags and necessary accouterments,

(ii) Urinary retention catheters, tubes, and bags, and

(iii) Feeding tubes, bags, or pumps.

(f) Vitamins, only as covered by the state formulary. [Statutory Authority: RCW 74.42.620 and 74.46.800. 85-17-070 (Order 2275), § 388-88-050, filed 8/21/85. 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.]

**Chapter 388-91 WAC
MEDICAL CARE--DRUGS**

WAC

388-91-010	Drugs--Persons eligible.
388-91-013	Drugs--Physician's identification required on prescriptions.
388-91-016	Drugs--Limitations to payment.
388-91-020	Nonformulary prescription drugs.
388-91-030	Drugs--Prescription claim, Form 525-106 (pharmacy statement).
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 may be provided without prior approval. It will include a description of program limitations, rules, policies, 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 "less than 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, 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 division of medical assistance 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 the necessary and essential medical care of recipients of medical assistance, medical care services and the limited casualty program. [Statutory Authority: RCW 74.08.090. 86-01-080 (Order 2320), § 388-91-010, filed 12/18/85; 84-09-017 (Order 2090), § 388-91-010, filed 4/10/84; 81-16-032 (Order 1684), § 388-91-010, filed 7/29/81; 81-10-016 (Order 1648), § 388-91-010, filed 4/27/81; 80-15-034 (Order 1554), § 388-91-010, filed 10/9/80; 80-02-024 (Order 1473), § 388-91-010, filed 1/9/80; 79-06-034 (Order 1402), § 388-91-010, filed 5/16/79; 78-10-077 (Order 1346), § 388-91-010, filed 9/27/78; Order 682, § 388-91-010, filed 5/10/72; Order 632, § 388-91-010, filed 11/24/71; Order 583, § 388-91-010, filed 7/20/71; Order 461, § 388-91-010, filed 6/17/70, effective 8/1/70; Order 387, § 388-91-010, filed 8/27/69; Order 316, § 388-91-010, filed 10/31/68.]

WAC 388-91-013 Drugs--Physician's identification required on prescriptions. The prescription claim, Form 525-106, must bear the prescribing physician's name or identification (provider) number. [Statutory Authority: RCW 74.08.090. 85-11-034 (Order 2233), § 388-91-013, filed 5/15/85; 79-06-034 (Order 1402), § 388-91-013, filed 5/16/79; Order 1112, § 388-91-013, filed 4/15/76; Order 884, § 388-91-013, filed 12/17/73; Order 682, § 388-91-013, filed 5/10/72; Order 461, § 388-91-013, filed 6/17/70, effective 8/1/70.]

WAC 388-91-016 Drugs--Limitations to payment.

(1) The department does not provide:

(a) Any drug regularly supplied as an integral part of program activity by other public agencies such as the United States Veterans' Administration, United States Department of Health and Human Services, Division of Indian Health, local health department, etc.;

(b) Drugs, biologicals, supplies, appliances, and equipment furnished by an extended care facility under Title XVIII of the Social Security Act;

(c) Drugs ordered for a hospitalized patient. These are to be furnished by the hospital;

(d) 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.

(e) Drugs listed in the federal register as "less than effective." Payment will not be made for such prescriptions under any circumstances.

(2) Prescribed nonformulary drugs will be allowed for unusual conditions only when approved by the department see WAC 388-91-020.

(3) The physician who provides a drug (oral or by injection) incidental to an office call may include a fee established by the department 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.

(4) 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. [Statutory Authority: RCW 74.08.090. 86-01-080 (Order 2320), § 388-91-016, filed 12/18/85; 85-11-034 (Order 2233), § 388-91-016, filed 5/15/85; 84-20-101 (Order 2158), § 388-91-016, filed 10/3/84; 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 388-91-020 Nonformulary prescription drugs.

(1) A request for nonformulary drugs must be submitted by the attending physician to the department for prior approval. The request must be supported by the medical diagnosis and include proper justification for the nonformulary drug.

(2) Payment may be made for nonformulary drugs prescribed without prior approval only in an acute emergency, and if the physician can substantiate that a nonformulary drug is mandatory. Justification must be received by the department within seventy-two hours for consideration. [Statutory Authority: RCW 74.08.090. 86-01-080 (Order 2320), § 388-91-020, filed 12/18/85; 85-11-034 (Order 2233), § 388-91-020, filed 5/15/85; 79-06-034 (Order 1402), § 388-91-020, filed 5/16/79; Order 1170, § 388-91-020, filed 11/24/76; Order 884, § 388-91-020, filed 12/17/73; Order 461, § 388-91-020, filed 6/17/70, effective 8/1/70; Order 316, § 388-91-020, filed 10/31/68.]

WAC 388-91-030 Drugs--Prescription claim, Form 525-106 (pharmacy statement). (1) The department's official prescription claim, Form 525-106, must be used

by the pharmacist. A supply may be obtained from provider services, division of medical assistance.

(2) Only four prescriptions may be entered on Form 525-106. Each prescription must bear specified unit and interval dosage.

(3) Only prescriptions for formulary drugs may be re-filled at the discretion and choice of the prescribing physician. The use of presigned prescription blanks to be filled out by the nursing home operators or pharmacists is prohibited. This practice shall be considered sufficient grounds for cancelling the vendor agreement of participating providers involved.

(4) To assure prompt payment, a coupon from the recipient's medical care identification booklet, Form DSHS 13-30, should be attached by the pharmacist to the individual's prescriptions. When a coupon is not available the provider may submit a billing without this coupon although the processing by the department may be somewhat slower. Payment will be made for all appropriate goods and/or services provided to eligible recipients.

(5) Accurate recording of all data on the pharmacy statement is essential. Any error or lack of clarity in the prescription national drug code (NDC) number or number of units dispensed will delay payment. Typed prescriptions are preferred and expedite payment. [Statutory Authority: RCW 74.08.090. 86-01-080 (Order 2320), § 388-91-030, filed 12/18/85; 85-11-034 (Order 2233), § 388-91-030, filed 5/15/85; 79-06-034 (Order 1402), § 388-91-030, filed 5/16/79; Order 884, § 388-91-030, filed 12/17/73; Order 461, § 388-91-030, filed 6/17/70, effective 8/1/70; Order 316, § 388-91-030, filed 10/31/68.]

WAC 388-91-035 Drugs--Pharmacist's agreement.

(1) Core Provider Agreement, Form DSHS 9-48 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.

(4) Sale or transfer of ownership will automatically cancel this agreement. New application should indicate

whether "high," "mid," or "low" volume provider in accordance with previous owner's volume. [Statutory Authority: RCW 74.08.090. 85-11-034 (Order 2233), § 388-91-035, filed 5/15/85; 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)

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) True unit dose systems recognized by the department require 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.

(6) Modified unit dose systems (also known as blister packs, "bingo" or punch cards) recognized by the department require each patient's medication be delivered in individually sealed single or multiple dose packages, and in quantities sufficient to meet specified minimums or one month's supply. Providers shall be paid a special dispensing fee per prescription. This special fee shall not apply to creams, ointments, ophthalmic preparations, and oral liquids. [Statutory Authority: RCW 74.08.090. 86-01-080 (Order 2320), § 388-91-040, filed 12/18/85; 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 388-82-130 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 department before payment can be made. [Statutory Authority: RCW 74.08.090. 86-01-080 (Order 2320), § 388-91-050, filed 12/18/85; 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.
388-92-015	Eligibility determination--SSI.
388-92-025	Computation of available income and resources.
388-92-030	Monthly standard.
388-92-043	Transfer of resources without adequate consideration.
388-92-045	Excluded resources.
388-92-050	Limitation of resources.

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) Couple - If an SSI related individual is living with another individual of the opposite sex and they both present themselves to the community as husband and wife they are treated as a couple. If the other individual is not SSI related, that individual is treated as a spouse in considering availability of income and resources for the applicant.

(3) SSI related - An aged, blind, or disabled person who meets the Title XIX resource standards.

(4) 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.

(5) Resources - Cash or other liquid assets or any real or personal property that an individual or spouse, if any, owns and could convert to cash to be used for support or maintenance.

(a) If an individual can reduce a liquid asset to cash, it is a resource.

(b) If an individual cannot reduce an asset to cash, it is not considered 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.

(6) 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. 84-02-051 (Order 2059), § 388-92-005, filed 1/4/84; 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 388-92-015 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 as categorically needy.

(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. The resource determination is made as of the first moment of the first day of the month. Changes in the amount of countable resources during a month do not affect eligibility or ineligibility for that month. [Statutory Authority: RCW 74.08.090. 85-07-049 (Order 2218), § 388-92-015, filed 3/20/85; 84-04-068 (Order

2073), § 388-92-015, filed 2/1/84; 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 388-92-025 Computation of available income and resources. (1) Total income of a beneficiary of supplemental security income is not considered available in determining eligibility.

(2) Financial responsibility of spouses and parents.

(a) 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).

(b) If both spouses apply or are eligible as aged, blind, or disabled and cease to live together their income and resources are considered available to each other for the time periods specified below. After the appropriate time period only the income and resources that are actually contributed by one spouse to the other are considered available.

(i) If spouses cease to live together because of the institutionalization of one spouse—

(A) Consider their income as available to each other through the month in which they cease to live together. Mutual consideration of income ceases with the month after the month in which separation occurs.

(B) Consider their resources as available to each other for the month during which they cease to live together and the six months following that month.

(ii) If spouses cease to live together for any reason other than institutionalization consider their income and resources as available to each other for the month during which they cease to live together and the six months following that month. If the mutual consideration of income and resources causes the individuals to lose eligibility as a couple, the agency will determine if an individual is eligible in accordance with subsection (c) of this section.

(c) If only one spouse in a couple applies or is eligible, or both spouses apply and are not eligible as a couple, and they cease to live together consider only the income and resources of the ineligible spouse that are actually contributed to the eligible spouse beginning with the month after the month in which they cease to live together.

(d) When both spouses are eligible and institutionalized:

(i) Income and resources are considered jointly if they share the same room.

(ii) Income and resources are considered separately if they don't share the same room.

(e) When only one spouse is eligible and both are institutionalized consider only the income and resources of the ineligible spouse that are actually contributed to the eligible spouse, even if they share the same room.

(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) For SSI related individuals, age eighteen to twenty-one, parents' income is not deemed available.

(5) For SSI related individuals under age eighteen, parents' income is deemed available when living in the same household.

(6) When the spouse of an SSI related applicant is ineligible or does not apply, the exclusions in subsections (7) and (9) 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.

(7) 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 (7)(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 benefits, only the portion of the payment which is attributable to the veteran is counted as income in determining eligibility for Medicaid.

(i) The veteran's aid and attendance/housebound allowance is to meet the cost of unusual medical care and is excluded in determining eligibility for Medicaid.

For institutionalized individuals, the amount subsequently is considered in the cost of institutional care.

(ii) The portion attributable to the dependent is counted as income to the dependent.

(m) 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 shall remain categorically eligible for medical assistance (MA). Any subsequent OASDI cost of living benefit increase shall be disregarded for eligibility. For institutionalized recipients, the amount subsequently is considered in the cost of institutional care. This disregard does not apply to:

(i) New applicants (i.e., who were not receiving SSI/SSP prior to increase).

(ii) Persons who are not actually receiving SSI/SSP payments for some other reason.

(iii) Persons who would have received SSI/SSP if they had applied.

(iv) Persons who would have received SSI/SSP if they were not living in a medical or intermediate care facility.

(n) 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.

(o) Income received by an ineligible or nonapplying spouse from a governmental agency for services provided to an eligible recipient (e.g. chore services).

(8) 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.

(9) Earned income exclusions for SSI related individuals shall be the first sixty-five dollars per month of earned income not excluded according to subsection (7) of this section, plus one-half of the remainder.

(10) In mixed households, where more than one assistance unit exists, determine income for the AFDC related assistance unit according to AFDC grant regulations. [Statutory Authority: RCW 74.08.090. 84-17-012 (Order 2132), § 388-92-025, filed 8/3/84; 84-02-056 (Order 2064), § 388-92-025, filed 1/4/84; 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) Applicants and/or recipients eligible for limited casualty program—medically needy will have the monthly standard applied as in WAC 388-99-020.

(4) When one or both of the applicants is SSI related in a medical facility, a full calendar month standards defined in WAC 388-95-340 and 388-95-360 must be used. [Statutory Authority: RCW 74.08.090. 84-02-055 (Order 2063), § 388-92-030, filed 1/4/84; 83-12-059 (Order 1964), § 388-92-030, filed 6/1/83; 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 388-92-043 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 at the time of transfer 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.

(e) Compensation includes:

(i) All money, real or personal property, food, shelter, or services received by the individual:

(A) At or after the time of transfer in exchange for the resource if the compensation was provided pursuant to a binding (legally enforceable) agreement in effect at the time of transfer; or

(B) Prior to the actual transfer if they were provided pursuant to a binding (legally enforceable) agreement whereby the eligible individual would transfer the resource or otherwise pay for such item.

(ii) The payment or assumption of a legal debt owed by the individual in exchange for the resource.

(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
33,334 - 35,000	27
35,001 - 36,667	28
36,668 - 38,333	29

Dollar Amount of Uncompensated Value	Months of Ineligibility
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) If a transferred resource is returned to the individual, the uncompensated value is no longer counted as of the date of return. The returned asset will be treated as a resource as of the first day of the following month.

(8) If the individual receives additional compensation in the form of cash for the transferred resource the uncompensated value will be reduced by the amount of the additional compensation as of the date the additional compensation is received. The additional compensation will be treated as a resource as of the first day of the following month.

(9) The period of ineligibility may be waived if it is determined that the application of the period of ineligibility shall cause undue hardship.

(10) 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.

(11) 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. 84-04-068 (Order 2073), § 388-92-043, filed 2/1/84; 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 reinvested 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:

(a) Is totally excluded regardless of its value if it is:

(i) Necessary for employment; or

(ii) Necessary for the individual's medical treatment;

or

(iii) Modified for operation by, or transportation of, a handicapped person; or

(b) Is excluded to the extent its current market value does not exceed \$4,500, any excess to be counted against the resource limit. An automobile may be excluded under this subsection only if no automobile is excluded under subsection (3)(a) of this section.

(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. The current market value shall not exceed six thousand dollars with a minimum annual rate of return of six percent.

(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 \$1,500 or less, in which case the cash surrender value is not evaluated. If the face value of policy(ies) is over \$1,500, 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) Burial spaces.

(a) The value of burial spaces for the individual, the individual's spouse or any member of the individual's immediate family.

(b) Burial spaces shall include conventional gravesites, crypts, mausoleums, urns, and other repositories which are customarily and traditionally used for the remains of deceased persons.

(c) For purposes of this subsection immediate family means an individual's minor and adult children, including adopted children and step-children; an individual's brothers, sisters, parents, adoptive parents, and the spouses of those individuals. Neither dependency nor

living-in-the-same-household will be a factor in determining whether a person is an immediate family member.

(12) Funds set aside for burial expenses.

(a) Funds specifically set aside for the burial arrangements of an individual or the individual's spouse not to exceed \$1,500 each.

(b) This exclusion applies if the inclusion of any portion of such amount would cause the resources of the individual (or spouse, if any) to exceed the limits specified in WAC 388-92-050.

(c) Funds set aside for burial expenses must be kept separate from other resources not set aside for burial. If such funds are mixed with other resources not intended for burial, the exclusion will not apply to any portion of the funds and will be treated as nonexcluded resources.

(d) Funds set aside for burial includes revocable burial contract, burial trust, or other burial arrangement or any other separately identifiable fund which is clearly designated as set aside for the individual's (or spouse's, if any) burial expenses.

(e) The \$1,500 exclusion must be reduced by the face value of insurance policies on the life of an individual owned by the individual or spouse if the cash surrender value of those policies has been excluded as provided in subsection (8) of this section and amounts in an irrevocable trust.

(f) Interest earned on excluded burial funds and appreciation on the value of excluded burial arrangements are excluded from resources if left to accumulate and become a part of the separately identifiable burial fund.

(g) Burial funds used for other purposes. Funds or interest earned on funds and appreciation in the value of burial arrangements which have been excluded from resources because they are burial funds must be used solely for that purpose. If any excluded funds, interest or appreciated values set aside for burial expenses are used for a purpose other than the burial arrangements of the individual or the individual's spouse for whom the funds were set aside, future medical assistance benefits of the individual (or the individual and individual's spouse) will be reduced by an amount equal to the amount of burial funds, interest or appreciated value used for other purpose.

(13) Other resources excluded by federal statute.

(14) Retroactive SSI or OASDI payments are excluded from resources for six months following the month of receipt. This exclusion applies to:

(a) Payments received on or after October 1, 1984.

(b) Payments received by the individual, spouse, and/or any other person whose income is considered available to meet the applicant's or recipient's needs.

(c) SSI payments made for benefits due for a month prior to the month of payment.

(d) OASDI payments made for benefits due for a month that is two or more months prior to the month of payment.

(e) Payments that remain in the form of cash, checking or saving accounts; this exclusion does not apply once the retroactive payment has been converted to any other form. [Statutory Authority: RCW 74.08.090. 85-

05-014 (Order 2204), § 388-92-045, filed 2/13/85; 84-17-069 (Order 2139), § 388-92-045, filed 8/15/84; 84-02-055 (Order 2063), § 388-92-045, filed 1/4/84; 83-10-077 (Order 1958), § 388-92-045, filed 5/4/83; 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 the dollar amount in subsection (1) of this section for a single individual or the dollar amount in subsection (2) of this section for a couple.

(1) The resource limitation for a single individual shall be \$1,500 prior to January 1, 1985 and shall be increased to \$1,600 on January 1, 1985, to \$1,700 on January 1, 1986, to \$1,800 on January 1, 1987, to \$1,900 on January 1, 1988 and to \$2,000 on January 1, 1989.

(2) The resource limitation for a couple shall be \$2,250 prior to January 1, 1985, and shall be increased to \$2,400 on January 1, 1985, to \$2,550 on January 1, 1986, to \$2,700 on January 1, 1987, to \$2,850 on January 1, 1988, and to \$3,000 on January 1, 1989. [Statutory Authority: RCW 74.08.090. 85-03-072 (Order 2194), § 388-92-050, filed 1/17/85; 81-10-014 (Order 1646), § 388-92-050, filed 4/27/81; Order 898, § 388-92-050, filed 1/25/74.]

Chapter 388-95 WAC

**INSTITUTIONAL--MEDICAL ASSISTANCE--
ELIGIBILITY**

WAC

388-95-335	Ownership of income.
388-95-340	Computation of available income and resources.
388-95-380	Excluded resources.
388-95-390	Limitation of resources.

WAC 388-95-335 Ownership of income. (1) Community property law as defined in RCW 26.16.030 shall be followed in determining ownership of income for purposes of Medicaid eligibility.

(2) All income received after marriage by either husband or wife or both is presumed to be community income.

(3) The total of the community income, received by the husband and the wife, shall be divided by two with one-half of the total assigned to each individual, as their income. [Statutory Authority: RCW 74.08.090. 85-09-024 (Order 2224), § 388-95-335, filed 4/10/85.]

WAC 388-95-340 Computation of available income and resources. (1) Total income of a beneficiary of supplemental security income is not considered available in determining eligibility.

(2) Financial responsibility of spouses and parents.

(a) 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).

(b) If both spouses apply or are eligible as aged, blind, or disabled and cease to live together their income and resources are considered available to each other for the time periods specified below. After the appropriate time period only the income and resources that are actually contributed by one spouse to the other are considered available.

(i) If spouses cease to live together because of the institutionalization of one spouse—

(A) Consider their income as available to each other through the month in which they cease to live together. Mutual consideration of income ceases with the month after the month in which separation occurs.

(B) Consider their resources as available to each other for the month during which they cease to live together and the six months following that month.

(ii) If spouses cease to live together for any reason other than institutionalization consider their income and resources as available to each other for the month during which they cease to live together and the six months following that month. If the mutual consideration of income and resources causes the individuals to lose eligibility as a couple, the agency will determine if an individual is eligible in accordance with subsection (c) of this section.

(c) If only one spouse in a couple applies or is eligible, or both spouses apply and are not eligible as a couple, and they cease to live together consider only the income and resources of the ineligible spouse that are actually contributed to the eligible spouse beginning with the month after the month in which they cease to live together.

(d) When both spouses are eligible and institutionalized:

(i) Income and resources are considered jointly if they share the same room.

(ii) Income and resources are considered separately if they don't share the same room.

(e) When only one spouse is eligible and both are institutionalized consider only the income and resources of the ineligible spouse that are actually contributed to the eligible spouse, even if they share the same room.

(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) For SSI related individuals, age eighteen to twenty-one, parents' income is not deemed available.

(5) For SSI related individuals under age eighteen, parents' income is deemed available when living in the same household.

(6) When the spouse of an SSI related applicant is ineligible or does not apply, the exclusions in subsections (7) and (9) 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.

(7) 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 (7)(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 benefits, only the portion of the payment which is attributable to the veteran is counted as income in determining eligibility for Medicaid.

(i) The veteran's aid and attendance/house bound allowance is to meet the cost of unusual medical care and is excluded in determining eligibility for Medicaid.

For institutionalized individuals, the amount subsequently is considered in the cost of institutional care.

(ii) The portion attributable to the dependent is counted as income to the dependent.

(m) 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 shall remain categorically eligible for medical assistance (MA). Any subsequent OASDI cost of living benefit increase shall be disregarded for eligibility. For institutionalized recipients, the amount subsequently is considered in the cost of institutional care. This disregard does not apply to:

(i) New applicants (i.e., who were not receiving SSI/SSP prior to increase).

(ii) Persons who are not actually receiving SSI/SSP payments for some other reason.

(iii) Persons who would have received SSI/SSP if they had applied.

(iv) Persons who would have received SSI/SSP if they were not living in a medical or intermediate care facility.

(n) 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.

(o) Income received by an ineligible or nonapplying spouse from a governmental agency for services provided to an eligible recipient (e.g. chore services).

(8) 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.

(9) Earned income exclusions for SSI related individuals shall be the first sixty-five dollars per month of earned income not excluded according to subsection (7) of this section, plus one-half of the remainder.

(10) In mixed households, where more than one assistance unit exists, determine income for the AFDC related assistance unit according to AFDC grant regulations.

(11) Money voluntarily withheld from SSA Title II benefits by the Social Security Administration (for the recovery of SSI overpayments) is considered as available income for the institutionalized individual's contribution toward the cost of care. [Statutory Authority: RCW 74.08.090, 84-17-012 (Order 2132), § 388-95-340, filed 8/3/84; 84-02-056 (Order 2064), § 388-95-340, filed 1/4/84; 83-12-059 (Order 1964), § 388-95-340, filed 6/1/83.]

WAC 388-95-380 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 reinvested 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 388-95-360 (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:

(a) Is totally excluded regardless of its value if it is:

(i) Necessary for employment; or

(ii) Necessary for the individual's medical treatment;

or

(iii) Modified for operation by, or transportation of, a handicapped person; or

(b) Is excluded to the extent its current market value does not exceed \$4,500, any excess to be counted against the resource limit. An automobile may be excluded under this subsection only if no automobile is excluded under subsection (3)(a) of this section.

(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. The current market value shall not exceed six thousand dollars with a minimum annual rate of return of six percent.

(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 in subsection (3) of this section.

(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) Burial spaces.

(a) The value of burial spaces for the individual, the individual's spouse or any member of the individual's immediate family.

(b) Burial spaces shall include conventional gravesites, crypts, mausoleums, urns, and other repositories which are customarily and traditionally used for the remains of deceased persons.

(c) For purposes of this subsection immediate family means an individual's minor and adult children, including adopted children and step-children; an individual's brothers, sisters, parents, adoptive parents, and the spouses of those individuals. Neither dependency nor living-in-the-same-household will be a factor in determining whether a person is an immediate family member.

(12) Funds set aside for burial expenses.

(a) Funds specifically set aside for the burial arrangements of an individual or the individual's spouse not to exceed \$1,500 each.

(b) This exclusion applies if the inclusion of any portion of such amount would cause the resources of the individual (or spouse, if any) to exceed the limits specified in WAC 388-95-390.

(c) Funds set aside for burial expenses must be kept separate from other resources not set aside for burial. If such funds are mixed with other resources not intended for burial, the exclusion will not apply to any portion of the funds and will be treated as nonexcluded resources.

(d) Funds set aside for burial includes revocable burial contract, burial trust, or other burial arrangement or any other separately identifiable fund which is clearly designated as set aside for the individual's (or spouse's, if any) burial expenses.

(e) The \$1,500 exclusion must be reduced by the face value of insurance policies on the life of an individual owned by the individual or spouse if the cash surrender value of those policies has been excluded as provided in subsection (8) of this section and amounts in an irrevocable trust.

(f) Interest earned on excluded burial funds and appreciation on the value of excluded burial arrangements are excluded from resources if left to accumulate and become a part of the separately identifiable burial fund.

(g) Burial funds used for other purposes. Funds or interest earned on funds and appreciation in the value of burial arrangements which have been excluded from resources because they are burial funds must be used solely for that purpose. If any excluded funds, interest or appreciated values set aside for burial expenses are used for a purpose other than the burial arrangements of the individual or the individual's spouse for whom the funds were set aside, future medical assistance benefits of the individual (or the individual and individual's spouse) will be reduced by an amount equal to the amount of burial funds, interest or appreciated value used for other purposes.

(13) Other resources excluded by federal statute.

(14) Retroactive SSI or OASDI payments are excluded from resources for six months following the month of receipt. This exclusion applies to:

(a) Payments received on or after October 1, 1984.

(b) Payments received by the individual, spouse, and/or any other person whose income is considered available to meet the applicant's or recipient's needs.

(c) SSI payments made for benefits due for a month prior to the month of payment.

(d) OASDI payments made for benefits due for a month that is two or more months prior to the month of payment.

(e) Payments that remain in the form of cash, checking or saving accounts; this exclusion does not apply once the retroactive payment has been converted to any other form. [Statutory Authority: RCW 74.08.090, 85-05-014 (Order 2204), § 388-95-380, filed 2/13/85; 84-17-069 (Order 2139), § 388-95-380, filed 8/15/84; 84-02-055 (Order 2063), § 388-95-380, filed 1/4/84; 83-12-059 (Order 1964), § 388-95-380, filed 6/1/83.]

WAC 388-95-390 Limitation of resources. The total value of resources allowed and not otherwise excluded shall not exceed the dollar amount in subsection (1) of this section for a single individual or the dollar amount in subsection (2) of this section for a couple.

(1) The resource limitation for a single individual shall be \$1,500 prior to January 1, 1985 and shall be increased to \$1,600 on January 1, 1985, to \$1,700 on January 1, 1986, to \$1,800 on January 1, 1987, to \$1,900 on January 1, 1988 and to \$2,000 on January 1, 1989.

(2) The resource limitation for a couple shall be \$2,250 prior to January 1, 1985, and shall be increased to \$2,400 on January 1, 1985, to \$2,550 on January 1, 1986, to \$2,700 on January 1, 1987, to \$2,850 on January 1, 1988, and to \$3,000 on January 1, 1989. [Statutory Authority: RCW 74.08.090. 85-03-072 (Order 2194), § 388-95-390, filed 1/17/85; 83-12-059 (Order 1964), § 388-95-390, filed 6/1/83.]

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WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-96-539	Allowable interest. [Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-539, filed 9/16/83; 83-05-007 (Order 1944), § 388-96-539, filed 2/4/83; 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.] Repealed by 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.
388-96-541	Offset of interest income. [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.] Repealed by 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.
388-96-547	Operating leases of facilities and 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.] Repealed by 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.
388-96-549	Rental expense paid to related organizations. [Order 1262, § 388-96-549, filed 12/30/77.] Repealed by 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.
388-96-743	Property cost area rate. [Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-743, filed 9/16/83; 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.] Repealed by 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.
388-96-750	Return on investment. [Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-750, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-750, filed 9/16/83; 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.] Repealed by 84-24-050 (Order 2172), filed 12/4/84. 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) "Accounting" - Activities providing information, usually quantitative and often expressed in monetary

units, for decision-making, planning, evaluating performance, controlling resources and operations, and external financial reporting to investors, creditors, regulatory authorities, and the public.

(2) "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.

(3) "Administration and management" – Activities employed to maintain, control, and evaluate the efforts and resources of an organization for the accomplishment of the objectives and policies of that organization.

(4) "Allowable costs" – See WAC 388-96-501.

(5) "Ancillary care" – Services required by the individual, comprehensive plan of care provided by qualified therapists or by support personnel under their supervision.

(6) "Arm's-length transaction" – A transaction resulting from good-faith bargaining between a buyer and seller who have adverse bargaining positions in the marketplace. Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter. Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

(7) "Assets" – 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.

(8) "Bad debts" – Amounts considered to be uncollectable from accounts and notes receivable.

(9) "Beds" – Unless otherwise specified, the number of set-up beds in the nursing home, not to exceed the number of licensed beds.

(10) "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 (4) of this section, has the right to acquire beneficial ownership of such ownership

interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

Except that, any person who acquires an ownership interest or power specified in subsection (10)(c)(i), (ii), or (iii) of this section with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power.

(d) 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 (10)(b) of this section; and

(ii) The pledge agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or 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 or powers pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

(11) "Capitalization" – The recording of an expenditure as an asset.

(12) "Capitalized lease" – A lease which is required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

(13) "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.

(14) "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.

(15) "Charity allowances" – Reductions in charges made by the contractor because of the indigence or medical indigence of a patient.

(16) "Contract" – A contract between the department and a contractor for the delivery of SNF or ICF services to medical care recipients.

(17) "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.

(18) "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.

(19) "CSO" – The local community services office of the department.

(20) "Department" – The department of social and health services (DSHS) and employees.

(21) "Depreciation" – The systematic distribution of the cost or other base of tangible assets, less salvage, over the estimated useful life of the assets.

(22) "Donated asset" – 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.

(23) "Entity" – An individual, partnership, corporation, or any other association of individuals capable of entering enforceable contracts.

(24) "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.

(25) "Exceptional care recipient" – A medical care recipient determined by the department to require exceptionally heavy care.

(26) "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.

(27) "Fair market value" – Prior to January 1, 1985, the price for which an asset would have been purchased on the date of acquisition in an arm's-length transaction between a well-informed buyer and seller, neither being under any compulsion to buy or sell. Beginning January 1, 1985, the replacement cost of an asset, less observed physical depreciation, on the date the fair market value is being determined.

(28) "Financial statements" – Statements prepared and presented in conformity with generally accepted accounting principles and the provisions of chapter 74.46 RCW and this chapter including, but not limited to, balance sheet, statement of operations, statement of changes in financial position, and related notes.

(29) "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.

(30) "Generally accepted accounting principles" – Accounting principles approved by the financial accounting standards board (FASB).

(31) "Generally accepted auditing standards" – Auditing standards approved by the American institute of certified public accountants (AICPA).

(32) "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.

(33) "Historical cost" – The actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.

(34) "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.

(35) "Imprest fund" – A fund which is regularly replenished in exactly the amount expended from it.

(36) "Interest" – The cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

(37) "Intermediate care facility" – A licensed facility certified to deliver intermediate care services to medical care recipients.

(38) "Joint facility costs" – Any costs representing expenses incurred which benefit more than one facility, or one facility and any other entity.

(39) "Lease agreement" – A contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the

lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment obligation of the lessee shall not be considered modification of a lease term.

(40) "Levels of care" – The classification of types of services provided to patients by a contractor, e.g., skilled nursing care or intermediate care.

(41) "Medical care program" – Medical assistance provided under RCW 74.09.500 or authorized state medical care services.

(42) "Medical care recipient" – An individual determined eligible by the department for the services provided in chapter 74.09 RCW.

(43) "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.

(44) "Net book value" – The historical cost of an asset less accumulated depreciation.

(45) "Net invested funds" – The net book value of tangible fixed assets employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles, plus an allowance for working capital which shall be five percent of the allowable costs of each contractor for the previous calendar year. Assets associated with central or home offices or otherwise not on the nursing home premises are not included in net invested funds.

(46) "Nonallowable costs" – Same as "unallowable costs."

(47) "Nonrestricted funds" – Funds which are not restricted to a specific use by the donor, e.g., general operating funds.

(48) "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.

(49) "Operating lease" – A lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

(50) "Owner" – A sole proprietor, general or limited partner, or beneficial interest holder of five percent or more of a corporation's outstanding stock.

(51) "Ownership interest" – All interests beneficially owned by a person, calculated in the aggregate, regardless of the form which such beneficial ownership takes.

(52) "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.

(53) "Per diem (per patient day) costs" – Total allowable costs for a fiscal period divided by total patient days for the same period.

(54) "Professionally designated real estate appraiser" – An individual regularly engaged in the business of providing real estate valuation services for a fee, and deemed qualified by a nationally recognized real estate appraisal educational organization on the basis of extensive practical appraisal experience, including the writing of real estate valuation reports as well as the passing of written examination on valuation practice and theory, and, by virtue of membership in such organization, required to subscribe and adhere to certain standards of professional practice as such organization prescribes.

(55) "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.

(56) "Qualified therapist":

(a) An activities specialist having specialized education, training, or at least one year's experience in organizing and conducting structured or group activities;

(b) An audiologist eligible for a certificate of clinical competence in audiology or having the equivalent education and clinical experience;

(c) A mental health professional as defined by chapter 71.05 RCW;

(d) A mental retardation professional, either a qualified therapist or a therapist, approved by the department having specialized training or one year's experience in treating or working with the mentally retarded or developmentally disabled;

(e) A social worker graduated from a school of social work;

(f) A speech pathologist eligible for a certificate of clinical competence in speech pathology or having the equivalent education and clinical experience;

(g) A physical therapist as defined by chapter 18.74 RCW; or

(h) An occupational therapist graduated from a program in occupational therapy, or having the equivalent of such education or training, and meeting all requirements of state law.

(57) "Recipient" – A medical care recipient.

(58) "Records" – Those data supporting all financial statements and cost reports including, but not limited to, all general and subsidiary ledgers, books of original entry, invoices, schedules, summaries, and transaction documentation, however such data are maintained.

(59) "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.

(60) "Related care" – Includes the director of nursing services, activities and social services programs, medical and medical records specialists, and consultation provided by medical directors, pharmacists, occupational, physical, speech, and other therapists, and mental health professionals as defined in law and regulation.

(61) "Related organization" – An entity under common ownership and/or control with, or which has control of or is controlled by, the contractor. Common ownership exists if an entity has a five percent or greater

beneficial ownership interest in the contractor and any other entity. Control exists if an entity has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution, whether or not the power is legally enforceable and however exercisable or exercised.

(62) "Relative" – Spouse; natural parent, child, or sibling; adopted child or adoptive parent; stepparent, stepchild, stepbrother, stepsister; 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.

(63) "Restricted fund" – A fund for which the use of the principal and/or income 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.

(64) "Secretary" – The secretary of the department of social and health services (DSHS).

(65) "Skilled nursing facility" – A licensed facility certified to deliver skilled nursing care services to medical care recipients.

(66) "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.

(67) "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.

(68) "Title XIX" – The 1965 amendments to the Social Security Act, P.L. 89-07, as amended.

(69) "Unallowable costs" – Costs which do not meet every test of an allowable cost.

(70) "Uniform chart of accounts" – A list of account titles identified by code numbers established by the department for contractors to use in reporting costs.

(71) "Vendor number" – A number assigned to each contractor delivering care services to medical care recipients.

(72) "Working capital" – Total current assets necessary, ordinary, and related to patient care from the most recent cost report minus total current liabilities necessary, ordinary, and related to patient care from the most recent cost report. [Statutory Authority: RCW 74.09.120 and 74.46.800. 85-13-060 (Order 2240), § 388-96-010, filed 6/18/85. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-010, filed 12/4/84. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-010, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-010, filed 9/16/83; 82-21-025 (Order

1892), § 388-96-010, filed 10/13/82; 81-22-081 (Order 1712), § 388-96-010, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-010, filed 2/25/81. Statutory Authority: RCW 74.09.120. 80-09-083 (Order 1527), § 388-96-010, filed 7/22/80; 79-04-061 (Order 1381), § 388-96-010, filed 3/28/79. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-010, filed 6/1/78; Order 1262, § 388-96-010, filed 12/30/77.]

WAC 388-96-020 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 will be determined in accordance with the principles, methods, and standards contained in this chapter and in chapter 74.46 RCW as set forth in this chapter. [Statutory Authority: RCW 74.09.120 and 74.46.800. 85-13-065 (Order 2245), § 388-96-020, filed 6/18/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-020, filed 9/16/83; 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 388-96-029 Change of ownership. (1) On the effective date of a change of ownership, as that term is defined in WAC 388-96-010, the department's contract with the old owner shall be terminated. The old owner shall give the department sixty days' written notice of such termination in accordance with the terms of the contract. When certificate of need approval is required for the new owner to acquire the facility, and the new owner wishes to continue to provide service to recipients without interruption, certificate of need approval shall be obtained before the old owner submits a notice of termination.

(2) If the new owner desires to participate in the cost-related reimbursement system, it shall meet the conditions specified in WAC 388-96-023, and shall submit a projected budget in accordance with WAC 388-96-026 no later than sixty days before the date of the change of ownership. The nursing home contract with the new owner shall be effective as of the date of the change of ownership. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-029, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-029, filed 9/16/83; Order 1262, § 388-96-029, filed 12/30/77.]

WAC 388-96-032 Termination of contract. (1) When a contract is terminated for any reason, the old contractor shall submit final reports in accordance with WAC 388-96-104.

(2) Upon notification of a contract termination, the department shall determine by preliminary or final settlement calculations the amount of any overpayments

made to the contractor, including overpayments disputed by the contractor. If preliminary or final settlements are unavailable for any period up to the date of contract termination, the department shall make a reasonable estimate of any overpayment or underpayments for such periods. The reasonable estimate shall be based upon prior period settlements, available audit findings, the projected impact of prospective rates, and other information available to the department.

(3) The old contractor shall provide security, in a form deemed adequate by the department, in the amount of determined and estimated overpayments, whether or not the overpayments are the subject of good-faith dispute. Security shall consist of:

(a) Withheld payments for one or more months of service due the contractor; or

(b) A surety bond issued by a bonding company acceptable to the department; or

(c) An assignment of funds to the department; or

(d) Collateral acceptable to the department; or

(e) A purchaser's assumption of liability for the prior contractor's overpayment; or

(f) Any combination of (a), (b), (c), (d), or (e) of this subsection.

(4) A surety bond or assignment of funds shall:

(a) Be at least equal in amount to determined or estimated overpayments, whether or not the subject of good-faith dispute, minus withheld payments;

(b) Be issued or accepted by a bonding company or financial institution licensed to transact business in Washington state;

(c) Be for a term sufficient to ensure effectiveness after final settlement and the exhaustion of administrative and judicial remedies: *Provided*, That the bond or assignment shall initially be for a term of five years, and shall be forfeited if not renewed thereafter in an amount equal to any remaining overpayment in dispute.

(d) Provide the full amount of the bond or assignment, or both, shall be paid to the department if a properly completed final cost report is not filed in accordance with this chapter, or if financial records supporting this report are not preserved and made available to the auditor; and

(e) Provide that an amount equal to any recovery the department determines is due from the contractor at settlement, but not exceeding the amount of the bond and assignment, shall be paid to the department if 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.

(5) The department shall release any payment withheld as security if alternate security is provided under subsection (3) of this section in an amount equivalent to determined and estimated overpayments.

(6) If the total of withheld payments, bonds, and assignments is less than the total of determined and estimated overpayments, the unsecured amount of such overpayments shall be a debt due the state and shall become a lien against the real and personal property of the contractor from the time of filing by the department

with the county auditor of the county where the contractor resides or owns property, and the lien claim has preference over the claims of all unsecured creditors.

(7) The contractor shall file a properly completed final cost report in accordance with the requirements of this chapter, which shall be audited by the department. A final settlement shall be determined within ninety days following completion of the audit process, including any administrative review of the audit requested by the contractor.

(8) Following determination of settlement for all periods, security held pursuant to this section shall be released to the contractor after overpayments determined in connection with final settlement have been paid by the contractor. If the contractor contests the settlement determination in accordance with WAC 388-96-224, the department shall hold the security, not to exceed the amount of estimated unrecovered overpayments being contested, pending completion of the administrative appeal process.

(9) If, after calculation of settlements for any periods, it is determined that overpayments exist in excess of the value of security held by the state, the department may seek recovery of these additional overpayments as provided by law.

(10) The department may accept an assignment of funds if the assignment meets the requirements of subsection (3) of this section.

(11) 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 security shall not be required.

(12) 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, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-032, filed 8/19/85. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-032, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-032, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-032, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-032, filed 6/1/78; Order 1262, § 388-96-032, filed 12/30/77.]

WAC 388-96-101 Reports. Each contractor shall submit to the department an annual cost report for the period from January 1st through December 31st of the preceding year. The department, when it deems necessary to assure the accuracy of cost reports, may require a contractor to submit to the department and may review any underlying financial statements or other records, including income tax returns, which relate to the cost report directly or indirectly. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-101, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-101, filed 9/16/83; 79-03-021 (Order 1370), §

388-96-101, filed 2/21/79; Order 1262, § 388-96-101, filed 12/30/77.]

WAC 388-96-104 Due dates for reports. (1) Annual cost reports for a calendar year shall be submitted by March 31st of the following year.

(2) If a contract is terminated for any reason, the old contractor shall submit a final cost report within one hundred twenty days after the effective date of termination for the period January 1st of the year of termination through the effective date of termination.

(3) A new contractor shall submit, by March 31st of the following year, a cost report for the period from the effective date of the contract through December 31st of the year the contract was made effective. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-104, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-104, filed 9/16/83; 79-03-021 (Order 1370), § 388-96-104, filed 2/21/79; Order 1262, § 388-96-104, filed 12/30/77.]

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 regulation, 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) If a cost 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, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-110, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-110, filed 9/16/83; 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. All entries must be typed, completed in black or dark blue ink, or provided in an acceptable, indelible copy.

(2) Reports shall be completed in accordance with the provisions of this chapter, the state of Washington nursing home accounting and reporting manual, and such instructions as may be issued by the department from time to time. If no specific regulation, manual provision, or instruction covers a situation, generally accepted accounting principles shall be followed.

(3) The accrual method of accounting shall be used. 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 and generally accepted accounting principles are followed.

(4) Methods of allocating costs, including indirect or overhead 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. If a contractor maintains records utilizing a chart of accounts other than that established by the department, the contractor shall provide to the department a written schedule specifying the way in which the contractor's individual account numbers correspond to the department's chart of accounts. 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, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-113, filed 8/19/85. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-113, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-113, filed 9/16/83; 83-05-007 (Order 1944), § 388-96-113, filed 2/4/83; 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 388-96-117 Certification requirement. Each required report shall be accompanied by a certification signed on behalf of the contractor responsible to the department during the report period. If the contractor files a federal income tax return, the certification shall be executed by the person normally signing this return. The certification shall also be signed by the licensed administrator of the nursing home. If the report is prepared by

someone other than an employee of the contractor, a separate statement shall be included with the certification signed by the individual preparing the report and indicating his or her status with the contractor. The certification of the cost report shall be submitted in original. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-117, filed 8/19/85; Order 1262, § 388-96-117, 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 receipt by the provider of the notification scheduling the department's field audit. In order to determine the date of receipt, all notifications scheduling field audits shall be sent by registered mail, return receipt requested. 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 74.46.800. 84-12-039 (Order 2105), § 388-96-122, filed 5/30/84. 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 388-96-128 Requirements for retention of records by the contractor. All records supporting the required reports shall be retained for a period of four years subsequent to filing at a location in the state of Washington specified by the contractor. If at the end of four years there are unresolved audit questions, the records shall be retained until these questions are resolved. All such data shall be made available upon demand to authorized representatives of the department and of the United States Department of Health and Human Services. When a contract is terminated, final settlement

will not be made and all payments due will be withheld until accessibility to and preservation of the records within the state of Washington are assured. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-128, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-128, filed 9/16/83; Order 1262, § 388-96-128, filed 12/30/77.]

WAC 388-96-134 Disclosure of nursing home reports. (1) Cost reports and final audit reports will be made available for public disclosure. Cost report schedules showing information on rental or lease of assets, the facility or corporate balance sheet, schedule of changes in financial position, statement of changes in equity-fund balance notes to financial statements, schedules summarizing adjustments to cost reports, reports or reviews of internal control and accounting procedures, and letters containing comments or recommendations relating to suggested improvements in internal control or accounting procedures shall be exempt from public disclosure.

(2) Whether or not subject to public disclosure, all documents shall be provided by the secretary, upon written request, to the legislature and to state agencies or state and local law enforcement officials having an official interest in the requested documents. A contractor or an authorized agent or designee may have access to nondisclosable information from its own records. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-134, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-134, filed 9/16/83; Order 1262, § 388-96-134, filed 12/30/77.]

WAC 388-96-204 Field audits. (1) All cost reports for calendar year 1982 shall be field audited by the department.

(2) Cost reports for years subsequent to 1982 may be field audited by auditors employed by or under contract with the department.

(3) Beginning with field audits for calendar year 1983, up to one hundred percent of submitted contractor cost reports and patient care trust fund accounts shall be audited.

(4) An audit of any or all schedules of a facility's cost report may be performed. The cost report, in its entirety, will be audited at least once every three years.

(5) Beginning with cost reports for calendar year 1983, facilities selected for audit shall be notified within one hundred twenty days after submission of a complete and correct cost report of the department's intent to audit. Such audits shall be completed within one year after notification of the department's intent to audit unless the contractor fails to allow access to records and documentation or otherwise prevents the audit from being completed in a timely manner.

(6) The department or an auditor under contract with the department, if the department or such auditor deems it necessary to assure the accuracy of cost reports, may

require a contractor to submit and may review any underlying financial statements or other records including income tax returns, which relate to the cost report directly or indirectly.

(7) Regarding submitted contractor cost reports, all facilities meeting the following conditions will be audited:

(a) Facilities terminating their contracts with the department to provide Medicaid services will be audited when the audits are conducted for the calendar year in which the contract is terminated. Schedule preference will be given to conduct closing audits as soon as possible;

(b) Facilities contracting in any given calendar year shall be audited for that partial or full year, and facilities contracting for the first time shall be audited annually for the first two full calendar years;

(c) Facilities whose last completed audit had an audit adjustment of ten thousand dollars or more in expenses, twenty thousand dollars or more in equity, one thousand dollars or more in revenue/interim payments, and/or fifty days or more in total patient days shall be audited;

(d) Facilities under investigation by the Internal Revenue Service, Securities Exchange Commission, Department of Health and Human Services, Medicaid fraud control unit, or any other federal, state, or municipal agency for alleged fiscal and/or patient account impropriety shall be audited for the year during which such investigation is commenced, for each year the investigation is continued, for the year during which the investigation is concluded, and for two full calendar years following the year the investigation is terminated;

(e) Facilities whose costs in one or more cost centers for the current year exceeds the industry average by one standard deviation, and such costs exceed prior year allowable costs, facilities whose costs in one or more cost centers exceeds inflation increases for the year in question, facilities with questionable costs in excess of ten thousand dollars, if requested by the manager, rate management program, bureau of nursing home affairs, shall be audited.

(8) If a facility has a home or central office and such central office or any associated facility meets any of the criteria set forth in subsection (7) of this section, such facility shall be audited as provided in subsection (7) of this section.

(9) Patient care trust fund accounts shall be audited annually if two or more findings were reported in the previous trust fund audit of a facility or if, in the opinion of the department, a single finding reported in the previous trust fund audit materially impacts the patient trust fund accounts maintained by the facility.

(10) Reported costs and trust fund accounts of facilities may be selected for audit on a random or other basis. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-204, filed 8/19/85. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-204, filed 12/4/84. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-204, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), §

388-96-204, filed 9/16/83; Order 1262, § 388-96-204, filed 12/30/77.]

WAC 388-96-207 Preparation for audit by the contractor. (1) The department will notify the contractor at least ten working days in advance of a field audit.

(2) The contractor shall provide the auditors with access to the nursing home records, and to all work papers and documentation supporting the data in the cost report or relating to patient trust funds. Such records shall be made available at a location in the state of Washington specified by the contractor.

(3) The contractor shall reconcile reported data with applicable federal income and payroll tax returns and with the records for the period covered by the report. Such reconciliation shall be in suitable form for verification by the auditors.

(4) The contractor shall designate and make available one or more individuals familiar with the internal operations of a facility being audited in order to respond to questions and requests for information and documentation from auditors. If the individual or individuals designated cannot answer all questions and respond to all requests, an alternate individual with sufficient knowledge and access to records and information must be provided by the contractor. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-207, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-207, filed 9/16/83; Order 1262, § 388-96-207, filed 12/30/77.]

WAC 388-96-213 Inadequate documentation. The auditors will disallow any assets, liabilities, revenues, or expenses reported as allowable which are not supported by adequate documentation in the contractor's records. Documentation must show both that costs reported were incurred during the period covered by the report and were related to patient care, and that assets reported were used in the provision of patient care. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-213, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-213, filed 9/16/83; Order 1262, § 388-96-213, filed 12/30/77.]

WAC 388-96-216 Deadline for completion of audits. (1) Provided auditors are given prompt and timely access to the nursing home and to all records necessary to audit the report, field audits will be completed within one year after a properly completed annual cost report is received by the department or, beginning with audits of 1983 cost reports, within one year after a nursing home is notified it has been selected for audit.

(2) The department will give priority to field audits of final annual reports and whenever possible will begin such field audits within ninety days after a properly completed final annual report is received. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-216, filed 8/19/85.]

Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-216, filed 9/16/83; Order 1262, § 388-96-216, filed 12/30/77.]

WAC 388-96-224 Final settlement. (1) If an audit is conducted, the department shall issue a final settlement report to the contractor after completion of the audit process, including exhaustion or mutual termination of reviews and appeals of audit findings or determinations. The final settlement shall be by cost center and shall fully substantiate disallowed costs, refunds, underpayments, or adjustments to the cost report and financial statements, reports, and schedules submitted by the contractor. The final settlement report shall compare the prospective rate at which the contractor was paid during the report period, weighted by the number of patient days reported for the period each rate was in effect as verified by audit, to the contractor's audited allowable costs for the reporting period. All authorized shifting, cost savings, and upper limits to rates shall be taken into account on a cost center basis. If the contractor is pursuing an administrative or judicial review or appeal in good faith regarding audit findings or determinations, the department may issue a partial final settlement report in order to recover overpayments based on audit findings or determinations not in dispute on review or appeal.

(2) For the 1981 cost report period, the department shall issue one settlement for the year which shall be composed of two parts: One relating to January 1, 1981, through June 30, 1981, and one relating to July 1, 1981, through December 31, 1981. For the first six months of 1981, the settlement shall be computed taking into account the court order and agreement between the department and Medicaid contractors for the UNH II and III period (January 1, 1978, through June 30, 1981). For the second six months of 1981, the settlement shall be computed in accordance with principles and instructions contained in regulations applicable to 1981 settlements, except for the requirement that a settlement cover an entire cost report year.

(3) A contractor shall have thirty days after receipt of a final settlement report to contest such report pursuant to WAC 388-96-901 and 388-96-904. Upon expiration of the thirty-day period, a final settlement report shall not be subject to review.

(4) If no audit is conducted by the department, the preliminary settlement report shall become the final settlement report.

(5) A final settlement will be reopened by the department if necessary to make adjustments based upon findings resulting from an audit performed pursuant to RCW 74.46.105. A final settlement may also be reopened to recover an industrial insurance dividend or premium discount under RCW 51.16.035 in proportion to a contractor's medical care recipients, pursuant to RCW 74.46.180(5). [Statutory Authority: RCW 74.09.120 and 74.46.800, 85-13-060 (Order 2240), § 388-96-224, filed 6/18/85. Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-224, filed 9/16/83.]

WAC 388-96-228 Cost savings. (1) In the patient care and food cost areas and in the administration and operations and property cost areas prior to July 1, 1983, the contractor shall refund all payments received for medical care recipients in excess of allowable costs for those recipients in those cost centers, taking into account any authorized shifting.

(2) Beginning July 1, 1983, in the administration and operations and property cost areas, contractors shall be permitted to retain a portion of payments received for recipients in excess of allowable costs for those recipients according to the following procedures:

(a) Based upon the latest information available, the department shall, by December 31st of each year, notify contractors of the fiftieth percentile rates in the administration and operations and property cost areas for the period July 1st through December 31st.

(b) A contractor shall be permitted to retain, after allowable shifting, seventy-five percent of cost savings in the administration and operations cost area or the property cost area multiplied by medical care recipient days of service if the average rate for the cost report period computed according to department instructions in such cost area is at or below the fiftieth percentile rate.

(c) A contractor shall be permitted to retain, after allowable shifting, fifty percent of cost savings in the administration and operations cost area or property cost area multiplied by medical care recipient days of service if the average rate for the cost report period computed according to department instructions in such cost area is above the fiftieth percentile rate.

(d) No cost savings for calendar year 1985 and subsequently shall be retained if the sum of the reported costs in the property cost center and the administration and operations cost center exceed audited allowable costs in those cost centers by ten cents or more per patient day.

(3) Cost savings attributable to any industrial insurance dividend or premium discount under RCW 51.16.035 shall be recovered by the department in proportion to the ratio of medical care recipients to other patients at the facility.

(4) For the 1983 cost reporting period, cost savings shall be computed but allowable savings shall be prorated by the proportion of Medicaid patient days reported for July 1st through December 31st to the total number of Medicaid patient days reported for the year. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800, 85-17-052 (Order 2270), § 388-96-228, filed 8/19/85. Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-228, filed 9/16/83.]

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 four 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 two hundred dollars cash, reaches the sum of one hundred seventy-five dollars.

The community services office will reevaluate the status of each recipient certified under the eligibility criteria prior to January 1, 1974, who has an award letter specifying a two hundred dollars cash limit.

(b) The account of any individual certified on or after January 1, 1974, whose resources are within one hundred dollars of the amount listed on the award letter.

(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) Mobility aids including walkers, wheelchairs, or crutches requested for the exclusive use by a recipient must have a written denial from the department of social and health services before a patient trust account can be charged.

(b) Requests for medically necessary services and supplies not funded under the provisions of chapter 388-96 WAC or chapter 388-86 WAC (reimbursement rate or coupon system) must have a written denial from the department before a patient trust account can be charged.

(c) A written denial from the department 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). The pharmacist's notation to this effect is sufficient. [Statutory Authority: RCW 74.42.620 and 74.46.800. 85-17-070 (Order 2275), § 388-96-369, filed 8/21/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-369, filed 9/16/83; 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 388-96-502 Indirect and overhead costs. If a nursing home provides goods or services not reimbursable under this chapter, any indirect or overhead costs associated with their provision must be allocated to such goods or services on a reasonable basis approved by the department and must not be reported as allowable costs. [Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-502, filed 5/30/84.]

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) Allowable costs will be reduced for hold-bed revenue in the property and administration and operations cost areas only. In the property cost area, the amount of reduction will be determined by dividing allowable property costs by total patient days and multiplying the result by total hold-room days. In the administration and operations cost area, the amount of reduction will be determined by dividing allowable administration and operations costs minus dietary, laundry, and nursing supply costs by the total patient days and multiplying the result by total hold-room days.

(3) 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.

(4) 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. 84-24-050 (Order 2172), § 388-96-505, filed 12/4/84; 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 388-96-508 Travel expenses for members of trade association boards of directors. Travel expenses for members of trade association boards of directors otherwise meeting the requirements of this chapter will be allowable for twelve meetings per calendar year. [Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-508, filed 5/30/84.]

WAC 388-96-509 Boards of directors fees. Fees paid to members of boards of directors of corporations operating nursing homes shall be included in any tests or limits on management or administrative compensation or expense. [Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-509, filed 5/30/84.]

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.

(4) Expenses for travel in the states of Idaho, Oregon, and Washington and the province of British Columbia associated with education and training will be allowable if the expenses meet the requirements of this chapter. [Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-525, filed 5/30/84. 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 388-96-533 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 1983

Bed Size	
1 - 79	\$ 29,716
80 - 159	\$ 32,884
160 and up	\$ 34,960

(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, plus reasonable vacation, holiday, and sick time normally available to employees working similar hours, by forty hours per week for each week covered by the cost report. 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 time records customary for employees which are adequate for audit for the licensed administrator, assistant administrator, and/or administrator-in-training. Such records must verify the actual hours of service performed for the nursing home.

(9) Reimbursement for administrative and management services shall be limited in total amount to allowable compensation for administrative personnel set forth in this section regardless of the provisions of any employment, management or consultation agreement, or other arrangement which exists between the contractor and persons or organizations providing such services.

(10) Costs of an administrator-in-training shall not be considered for the purpose of setting the administration and operations prospective rate. The costs of an approved administrator-in-training program shall be reimbursed by an adjustment to current rate. To obtain an adjustment, the contractor must submit a request for an increase in current rate together with necessary documentation which shall include a copy of the department of licensing approval of the administrator-in-training program and a schedule indicating the commencement date, expected termination date, salary or wage, hours, and costs of benefits. The contractor shall notify the department, at least thirty days in advance, of the actual termination date of the administrator-in-training program. Upon termination of the program, the current rate shall be reduced by an amount corresponding to the cost of the program. [Statutory Authority: RCW 74.46.800.]

84-12-039 (Order 2105), § 388-96-533, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-533, filed 9/16/83; 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 388-96-539 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-96-541 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-96-547 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-96-549 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-96-557 Depreciable assets. (1) Tangible assets of the following types in which a contractor has an economic interest through ownership or lease agreement 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 wastebaskets, bedpans, 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, but is not limited to, 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. 84-24-050 (Order 2172), § 388-96-557, filed 12/4/84; 83-19-047 (Order 2025), § 388-96-557, filed 9/16/83; 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) Effective January 1, 1985, the depreciation base shall be the historical cost of the contractor, or lessor if the assets are leased by the contractor, in acquiring the asset in an arm's-length transaction, and preparing the asset for use, less goodwill, and less accumulated depreciation incurred during periods 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 or if the contractor cannot or will not provide the historical cost of a leased asset, the department will have the fair market value of the asset at the time of purchase established by appraisal. For leased assets, the department may examine documentation in its files to determine the lessor's acquisition date at the time of the last arm's-length transaction. If the department is unable to determine the lessor's acquisition date by review of its records, the department may use the construction date of the facility, as found in the state fire marshal's records, as the lessor's acquisition date of leased assets in determining fair market value. 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.

(5) If a contractor cannot or will not provide the lessor's acquisition cost of assets leased by the contractor, the appraised asset value of land, building, or equipment, determined by the department of general administration shall be adjusted by the department using the *Marshall and Swift Valuation Guide* to reflect the value at the lessor's acquisition date. If an appraisal has been prepared for leased assets and the assets subsequently sell in the first arm's-length transaction since January 1, 1980, pursuant to subsection (7) of this section, the *Marshall and Swift Valuation Guide* will be used to adjust the asset value determined by the appraisal to the sale date. If the assets are located in a city for which the *Marshall and Swift Valuation Guide* publishes a specific index, or if the assets are located in a county containing that city, the city-specific index shall be used to adjust the appraised value of the asset. If the assets are located in a city or county for which a specific index is not calculated, the *Western District Index* calculated by Marshall and Swift shall be used.

(6) If depreciable assets are acquired which were used in the Medicaid program on or after January 1, 1980, the depreciation base of such assets shall not exceed the net book value existing at the time of acquisition or which would have existed had the assets continued in use under the previous Medicaid contract with the department; except that depreciation shall not be accumulated for periods during which such assets were not in use in or as a nursing care facility.

(7) Subsection (6) of this section shall not apply to the most recent arm's-length acquisition if it occurs at least ten years after the previous arm's-length transfer of ownership nor shall subsection (6) of this section apply to the first arm's-length acquisition of assets occurring on or after January 1, 1980, for facilities participating in the Medicaid program prior to January 1, 1980. The depreciation base for such acquisitions shall not exceed the lesser of the fair market value of the assets determined by an appraisal conducted by the department of general administration and the owner's acquisition cost of each asset, land, building, or equipment. An appraisal conducted by the department of general administration shall be final unless the appraisal is shown to be arbitrary and capricious. Should a contractor request a revaluation of an asset, the contractor must document ten years have passed since the most recent arm's-length transfer of ownership. As mandated by Section 2314 of the Deficit Reduction Act of 1984 (P.L. 98-369) and pursuant to RCW 74.46.840, this subsection is inoperative for any transfer of ownership of any asset occurring on or after July 18, 1984, leaving subsection (6) of this section to apply without exception to acquisitions occurring on or after July 18, 1984.

(8) For purposes of establishing the property and return on investment component rates, the value of leased equipment, if unknown by the contractor, may be estimated by the department using previous department of general administration appraisals as a data base. The estimated value may be adjusted using the *Marshall and Swift Valuation Guide* to reflect the value of the asset at the lessor's acquisition date. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-559, filed 8/19/85. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-559, filed 12/4/84; 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, provided that, 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 historical cost 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. 84-24-050 (Order 2172), § 388-96-561, filed 12/4/84; 83-19-047 (Order 2025), § 388-96-561, filed 9/16/83. 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 388-96-567 Methods of depreciation. (1) Buildings, building improvements, 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, 74.46.840 and

74.46.800. 85-17-052 (Order 2270), § 388-96-567, filed 8/19/85. 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 388-96-580 Operating leases of office equipment. Rental costs of office equipment under arm's-length operating leases shall be allowable to the extent such costs are necessary, ordinary, and related to patient care. Beginning January 1, 1985, office equipment rental costs shall be reimbursed in the administration and operations cost center. Office equipment may include items typically used in administrative or clerical functions such as telephones or PBX equipment, copy machines, desks and chairs, calculators and adding machines, file cabinets, typewriters, and computers. However, expenses of leasing computers may not be reimbursed in excess of ten cents per patient day. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-580, filed 8/19/85. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-580, filed 12/4/84. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-580, filed 5/30/84.]

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 chapters 388-86 and 388-88 WAC.

(c) Costs associated with a capital expenditure subject to Section 1122 approval (Part 100, Title 42 C.F.R.) if the department found the capital expenditure 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 owners, officers, directors, stockholders, and others associated with the

contractor or home office, except compensation paid for service related to patient care.

(g) Costs in excess of limits or violating principles set forth in this chapter.

(h) Costs resulting from transactions or the application of accounting methods circumventing the principles of the prospective cost-related reimbursement system.

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere.

(j) Bad debts. Beginning July 1, 1983, bad debts of Title XIX recipients are allowable if the debt is related to covered services, it arises from the recipient's required contribution toward the cost of care, the provider can establish reasonable collection efforts were made, the debt was actually uncollectible when claimed as worthless, and sound business judgment established there was no likelihood of recovery at any time in the future. Reasonable collection efforts shall consist of three documented attempts by the contractor to obtain payment. Such documentation shall demonstrate the effort devoted to collect the bad debts of Title XIX recipients is at the same level as the effort normally devoted by the contractor to collect the bad debts of non-Title XIX patients. Should a contractor collect on a bad debt, in whole or in part, after filing a cost report, reimbursement for the debt by the department shall be refunded to the department to the extent of recovery.

(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. Dues to national trade associations or that portion of dues paid to local or state trade associations attributable to membership in national associations shall be unallowable. Any portion of trade association dues attributable to legal and consultant fees and costs in connection with lawsuits or other legal action against the department shall be unallowable.

(m) Vending machine expenses.

(n) Expenses for barber or beautician services not included in routine care.

(o) Funeral and burial expenses.

(p) Costs of gift shop operations and inventory.

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except items used in patient activity programs where clothing is a part of routine care.

(r) Fund-raising expenses, except expenses directly related to the patient activity program.

(s) Penalties and fines.

(t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations.

(u) Federal, state, and other income taxes.

(v) Costs of special care services except where authorized by the department.

(w) Expenses of 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.

(ii) Beginning January 1, 1985, lease costs, including operating and capital leases, except for office equipment operating lease costs.

(jj) Beginning January 1, 1985, interest costs.

(kk) Travel expenses outside the states of Idaho, Oregon, and Washington and the province of British Columbia. However, travel to or from the home or central office of a chain organization operating a nursing home will be allowed whether inside or outside these areas if such travel is necessary, ordinary, and related to patient care. [Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-585, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-585, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-585, filed 10/13/82; 82-11-065 (Order 1808), § 388-96-585, filed 5/14/82; 81-22-081 (Order 1712), § 388-96-585, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-585, filed 2/25/81. Statutory Authority: RCW 74.09.120. 79-04-102 (Order 1387), § 388-96-585, filed 4/4/79. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-585, filed 6/1/78; Order 1262, § 388-96-585, filed 12/30/77.]

WAC 388-96-716 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) Nursing services;

(2) Food;

(3) Administration and operations;

(4) Property; and

(5) Return on investment. [Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-716, filed 12/4/84; 83-19-047 (Order 2025), § 388-96-716, filed 9/16/83; 81-15-049 (Order 1669), § 388-96-716, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-716, filed 5/30/80, effective 7/1/80; 78-02-013 (Order 1264), § 388-96-716, filed 1/9/78.]

WAC 388-96-717 Desk review adjustments. (1) The department shall analyze each annual cost report to determine if the information is correct, complete, and reported in conformity with generally accepted accounting principles, the nursing home accounting and reporting manual, and instructions issued by the department. An analysis by the department to determine whether reported information is correct and complete may include, but is not limited to:

(a) An examination of reported costs for prior years;

(b) An examination of desk review adjustments made in prior years and their final disposition; and

(c) An examination of findings, if any, from field audits of cost reports from prior years and findings, if any, from the field audit of the cost report under analysis.

(2) If it appears from this analysis a contractor has not correctly determined or reported its costs, the department may make adjustments to the reported information for the purpose of establishing reimbursement rates. A schedule of such adjustments shall be provided to contractors and shall include an explanation of the adjustment and the dollar amount of the adjustment for each adjustment made. If a contractor believes an adjustment is in error, the adjustment shall be subject to review pursuant to WAC 388-96-769 and, if a satisfactory resolution of issues is not reached, to further review pursuant to WAC 388-96-901 and 388-96-904.

(3) The department shall accumulate data from properly completed cost reports for use in exception profiling and establishing rates.

(4) The department may further utilize such accumulated data for analytical, statistical, or informational purposes as deemed necessary by the department. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-717, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-717, filed 9/16/83.]

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 submitted by contractors.

(2) Data containing obvious errors will be excluded from the determination of predicted costs and rate upper limits for WAC 388-96-735.

(3) Inflation adjustments shall be applied as follows:

(a) In the nursing services and administration and operations cost areas for July rate setting, a percentage

adjustment determined by the legislature shall be applied to allowable costs in these cost areas if the cost report for a contractor covers all twelve months of the cost report period. If the cost report covers less than twelve months, the inflation factor shall be reduced to reflect the shorter period.

(b) In the food cost area, an inflation factor of 2.5 percent shall be applied to the January 1, 1983, rate for all contractors to determine the July 1, 1983, food cost center rate. For July rate setting in subsequent years, the adjustment factor determined by the legislature shall be applied to the previous July rate.

(c) Property and return on investment rates will not be adjusted for inflation.

(4) The occupancy level for each facility shall be computed by dividing the actual number of patient days by the product of the numbers of licensed beds and calendar days in the report period. For prospective rate computations, as well as determining lids for property and administration and operations reimbursement, if a facility's occupancy is below eighty-five percent, per patient day cost shall be computed utilizing patient days at the eighty-five percent occupancy level. Actual occupancy level shall be utilized for facilities at or above eighty-five percent occupancy.

(5) If a nursing home provides residential care to individuals other than skilled or intermediate care patients, the facility may request in writing and the department may grant in writing an exception to the requirements of subsection (4) of this section by including such other residents in computing occupancy. Exceptions granted will be revocable effective ninety days after written notice of revocation is received from the department. No exception will be granted unless the contractor submits with the annual cost report a certified statement of occupancy including all residents of the facility and their status or level of care. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-719, filed 8/19/85. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-719, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-719, filed 9/16/83; 82-17-071 (Order 1867), § 388-96-719, filed 8/18/82; 82-12-068 (Order 1820), § 388-96-719, filed 6/2/82; 82-04-073 (Order 1756), § 388-96-719, filed 2/3/82; 81-15-049 (Order 1669), § 388-96-719, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-719, filed 5/30/80, effective 7/1/80; 79-12-085 (Order 1461), § 388-96-719, filed 11/30/79; 78-11-043 (Order 1353), § 388-96-719, filed 10/20/78. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-719, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-719, filed 1/9/78.]

WAC 388-96-721 Priorities in establishing rates and responding to appeals of desk-review adjustments. Consistent with other provisions of this chapter, the following priorities shall apply in calculating rates, issuing rates, and responding to appeals of desk-review adjustments:

(1) First priority shall be given to contractors submitting correct and complete cost reports postmarked no later than March 31st;

(2) Second priority shall be given to contractors submitting correct and complete cost reports by May 15th;

(3) Third priority shall be given to contractors submitting correct and complete cost reports after May 15th; and

(4) For the purposes of responding to appeals of desk-review adjustments within each of the foregoing priority groups, contractors will receive a priority determined by the proportion of Medicaid patient days of service to total patient days of service reflected in the latest cost report and by the rate change at July 1st rate setting relative to other facilities in the priority group. [Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-721, filed 5/30/84.]

WAC 388-96-722 Nursing services cost area rate.

(1) The nursing services cost area reimbursement rate will reimburse for the necessary and ordinary costs of providing routine nursing and related care to recipients. The cost of one-to-one care provided by qualified therapists and their employees are included only to the extent the costs are not covered by Medicare, part B, or any other coverage.

(2) Nursing service costs will be subject to two reasonableness tests:

(a) A test for nursing staff hours; and

(b) A test for cost increases between the current and preceding report period.

(i) The test for nursing staff hours will use a regression of hours reported by facilities for registered nurses, licensed practical nurses, and nurses' aids, including purchased and allocated nursing and aid staff time, and the average Battelle patient debility score for the corresponding facilities as computed by the department. Data for the regression shall be taken from correctly completed cost reports and from patient assessments completed by the department for the corresponding calendar report year, which are available at the time the regression equation is computed. A limit on nursing and nursing aid staffing hours will be calculated and set for each facility at predicted staffing hours plus 1.75 standard errors utilizing the regression equation calculated by the department. Costs for facilities with reported hours exceeding the limit will be reduced by an amount equivalent to the hours exceeding the limit times the average wage rate for nurses and aids indicated on cost reports for the year in question, including benefits and payroll taxes allocated to such staff. Contractors' reporting hours exceeding the limit shall receive the higher of their January 1983 patient care rate or the nursing services rate computed for them according to the provisions of this subsection, plus applicable inflation adjustments.

(ii) The test for cost increases shall compare the percentage change between the most recent cost report period and the next prior cost report period allowable nursing service costs for the facility against the percentage change between July of the most recent cost report period and July of the next prior cost report period

medical care component of the consumer price index for urban consumers nationwide. Facilities reporting increases greater than the consumer price index shall be limited to a rate determined by their 1981 adjusted patient care costs inflated by the medical care component of the consumer price index. If a facility is affected by this limit due to special or unusual circumstances, such as a decrease in patient days, the department may grant an exception or partial exception to the limit. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-722, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-722, filed 9/16/83; 82-11-065 and 82-13-050 (Orders 1808 and 1808A), § 388-96-722, filed 5/14/82 and 6/14/82; 81-15-049 (Order 1669), § 388-96-722, filed 7/15/81; 81-06-024 (Order 1613), § 388-96-722, filed 2/25/81; 80-06-122 (Order 1510), § 388-96-722, filed 5/30/80, effective 7/1/80; 79-12-085 (Order 1461), § 388-96-722, filed 11/30/79. Statutory Authority: RCW 18.51.310 and 74.09.120. 78-11-013 (Order 1349), § 388-96-722, filed 10/9/78. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-722, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-722, filed 1/9/78.]

WAC 388-96-735 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) Each contractor's allowable, inflation adjusted, per patient day administration and operations cost shall be determined.

(3) Costs for contractors having submitted correct and complete cost reports by the time July rates are initially to be established shall be ranked from highest to lowest. The eighty-fifth percentile of the ranking shall be determined.

(4) Administration and operations rates for individual providers shall be the lower of the provider's allowable cost or the eighty-fifth percentile.

(5) Beginning July 1, 1984, allowable costs for administration and operations for rate setting purposes shall include allowable retained savings for the preceding report year.

(6) Beginning January 1, 1985, the administration and operations cost area rate will include reimbursement for the necessary and ordinary lease costs of office equipment as specified in WAC 388-96-580. [Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-735, filed 12/4/84; 83-19-047 (Order 2025), § 388-96-735, filed 9/16/83; 82-11-065 (Order 1808), § 388-96-735, filed 5/14/82; 81-15-049 (Order 1669), § 388-96-735, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-735, filed 5/30/80, effective 7/1/80; 79-12-085 (Order 1461), § 388-96-735, filed 11/30/79; 78-02-013 (Order 1264), § 388-96-735, filed 1/9/78.]

WAC 388-96-743 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-96-745 Property cost area reimbursement rate. (1) The property cost area rate for each facility shall be determined by dividing the sum of the prior period depreciation costs subject to the provisions of this chapter, adjusted for any capitalized addition or replacements approved by the department and the retained savings from the property cost center as provided in WAC 388-96-228, by total patient days for the facility in the prior period. Allowable depreciation costs are defined as the costs of depreciation of tangible assets meeting the criteria specified in WAC 388-96-557, regardless of whether owned or leased by the contractor. Depreciation of leased office equipment shall not be reimbursable.

(2) If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total patient days used in computing the property cost center rate shall be adjusted to anticipated patient day level.

(3) If a certificate of need for a new facility is requested, the department, in reaching its decision, shall take into consideration per-bed land and building construction costs for the facility which shall not exceed a maximum determined by the department. [Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-745, filed 12/4/84.]

WAC 388-96-750 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-96-752 Documentation of leased assets. If the department challenges the historical cost of a leased asset or if the contractor cannot or will not provide the lessor's acquisition cost of an asset, the asset will be excluded from reimbursement until a department of general administration appraisal is prepared for the asset. [Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-752, filed 12/4/84.]

WAC 388-96-754 A contractor's return on investment. (1) The department shall establish for individual Medicaid facilities return on investment allowances composed of a financing allowance and a variable return allowance.

(2)(a) The financing allowance shall be determined by multiplying the net invested funds of each facility by eleven percent and dividing by the contractor's total patient days. Annual patient days taken from the contractor's cost report for the most recent twelve-month cost report period will be used. If the cost report covers less than twelve months, annual patient days will be estimated based upon data in the cost report. If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total patient days used in computing the financing and variable return allowances shall be adjusted to anticipated patient day level.

(b) In computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in this chapter, including owned and leased assets, shall be used, except the capitalized cost of land upon which a facility is located and other such contiguous land which is reasonable and necessary for use in the regular course of providing patient care shall also be included. In the case of leased facilities where the net invested funds are unknown or the contractor is unable or unwilling to provide necessary information to determine net invested funds, the department may determine an amount to be used for net invested funds based upon an appraisal conducted by the department of general administration pursuant to this chapter.

(3) The variable return allowance shall be determined according to the following procedure:

(a) The department shall rank all facilities in numerical order from highest to lowest based upon average per diem allowable costs for the sum of the administration and operations and property cost centers for the preceding cost report period. If the contractor's administration and operations and property rates have been established based on a budget, the variable return allowance shall be calculated based on budgeted costs.

(b) The variable return allowance shall be computed by multiplying the total prospective rate for each facility by the appropriate percentage which shall not be less than one percent nor greater than four percent. The department shall divide the facilities ranked according to subsection (3)(a) of this section into four groups, from highest to lowest, with an equal number of facilities in each group or nearly equal as is possible. Facilities in the highest quarter will be assigned a percentage of one, in the second highest quarter a percentage of two, in the third highest quarter a percentage of three, and in the lowest quarter a percentage of four.

(4) The sum of the financing allowance and the variable return allowance shall be the return on investment for each facility and shall be added to the prospective rate for each facility.

(5) If a facility is leased by a contractor as of January 1, 1980, in an arm's-length agreement, which continues to be leased under the same lease agreement as defined in this chapter, and for which the annualized lease payment, plus any interest and depreciation expenses of contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center determined according to this chapter, is more than the return on investment allowance determined according to this section, the following shall apply:

(a) The financing allowance shall be recomputed substituting the fair market value of the assets, as of January 1, 1982, determined by department of general administration appraisal less accumulated depreciation on the lessor's assets since January 1, 1982, for the net book value of the assets in determining net invested funds for the facility. Said appraisal shall be final unless shown to be arbitrary and capricious.

(b) The sum of the financing allowance computed under this subsection and the variable return allowance shall be compared to the annualized lease payment, plus any interest and depreciation expenses of contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center rate determined according to this chapter. The lesser of the two amounts shall be called the alternate return on investment allowances.

(c) The return on investment allowance determined in accordance with subsections (1), (2), (3), and (4) of this section or the alternate return on investment allowance, whichever is greater, shall be the return on investment allowance for the facility and shall be added to the prospective rate of the facility.

(d) In the case of a facility leased by the contractor as of January 1, 1980, in an arm's-length agreement, if the lease is renewed or extended pursuant to a provision of the lease, the treatment provided in subsection (5)(a) of this section shall be applied except that in the case of renewals or extensions made on or subsequent to April 1, 1985, reimbursement for the annualized lease payment shall be no greater than the reimbursement for the annualized lease payment for the last year prior to the renewal or extension of the lease.

(6) In the event the Department of Health and Human Services disallows the application of the return on investment allowances to nonprofit facilities, the department shall modify the measurements of net invested funds used for computing individual facility return on investment allowances as follows: Net invested funds for each nonprofit facility shall be multiplied by one minus the ratio of equity funds to the net invested funds of all nonprofit facilities. [Statutory Authority: RCW 74.09-.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-754, filed 8/19/85. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-754, filed 12/4/84.]

WAC 388-96-760 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 provide as part of the annual cost report a statement of the average charges for the cost report year for services covered by the rate and supporting computations and documentation. 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. [Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-760, filed 12/4/84; 83-19-047 (Order 2025), § 388-96-760, filed 9/16/83; 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 388-96-761 Home office, central office, and other off-premises assets. Assets used in the provision of services by or to a nursing home, but not located on the premises of the nursing home, shall not be included in net invested funds or in the calculation of property reimbursement for the nursing facility. Depreciation, interest expense, and operating lease expense for home office, central office, and other off-premises assets may be allocated to the cost of services provided to or by the facility on a reasonable statistical basis approved by the department and included in the costs of services in cost centers where such services and related costs are appropriately reported. [Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-761, filed 5/30/84.]

WAC 388-96-762 Allowable land. (1) Beginning January 1, 1985, land associated with a nursing home which is eligible for inclusion in net invested funds shall not exceed two acres for facilities located in a standard metropolitan statistical area, as defined by the United States Bureau of the Census, and three acres for nursing homes located outside such an area.

(2) The department may grant an exception to these limits if a contractor presents documentation deemed adequate by the department establishing a larger area of land is directly related to patient care. Requests for exceptions and any exceptions granted must be in writing.

(3) Requests for exceptions may be granted in the following cases:

(a) The area occupied by the nursing home building exceeds the allowable land area specified in subsection (1) of this section;

(b) The land is used directly in the provision of patient care;

(c) The land is maintained;

(d) The land is not subdivided or eligible for subdivision;

(e) The land is zoned for nursing home or similar use; or

(f) Other reasons exist which are deemed sufficient by the department. [Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-762, filed 5/30/84.]

WAC 388-96-764 Activities assistants. Costs associated with the employment of activities assistants working under the direction of a qualified activities specialist are allowable in the nursing services cost center. [Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-764, filed 5/30/84.]

WAC 388-96-765 Ancillary care. Beginning July 1, 1984, costs of providing ancillary care are allowable provided documentation establishes the costs were incurred for medical care recipients and other sources of payment to which patients may be legally entitled, such as private insurance or Medicare, were first fully utilized. [Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-765, filed 5/30/84.]

WAC 388-96-767 Appraisal values. If a contractor is unwilling or unable to provide and document the lessor's historical cost of leased assets, the department shall arrange for an appraisal of such assets to be conducted by the state of Washington department of general administration. If such an appraisal is conducted, it shall be the basis for all property and return on investment reimbursement, except that: If documentation subsequently becomes available to the department establishing the lessor's historical cost is less than the appraisal value, the historical cost shall be the basis for all property and return on investment reimbursement. [Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-767, filed 5/30/84.]

WAC 388-96-773 Adjustments to prospective rates.

(1) Prospective rates shall be maximum payment rates for contractors for the periods to which they apply, except as otherwise provided in this section. Rate adjustments shall not be granted for cost increases which are or were subject to management control or negotiation including, but not limited to, all lease cost increases, or for cost increases not expressly authorized in subsections (2), (3), and (4) of this section.

(2) Adjustments to prospective rates shall be granted by the department for the following:

(a) The facility's average debility score for the latest available twelve-month period differs from the score employed in establishing the facility's preceding July 1st rate by ten percent or more;

(b) Changes in staffing levels required by the department; or

(c) Capital additions, improvements, or replacements made as a condition of survey, licensure, or certification.

(3) The department may grant a prospective rate increase to meet the costs of eliminating circumstances or conditions particular to a facility which are beyond the control of the contractor and which threaten the health or safety of patients. Rate adjustments granted pursuant to this subsection shall cover only that portion of the cost which cannot be met from the contractor's existing or available resources. Existing or available resources shall include all funds in all components of the contractor's Medicaid rate, including return on equity or investment.

(4) Adjustments for economic trends and conditions shall be provided exclusively by means of inflation adjustments as authorized by the legislature. Economic trends and conditions include, but are not limited to, increases in the following: Municipal, county, state, or federal taxes and assessments; insurance premiums whether paid to a public agency or private carrier; interest rates; utility costs whether paid to a public or private supplier; and prices of goods or services.

(5) Contractors requesting an adjustment pursuant to this section must submit:

(a) A financial analysis which sufficiently discloses the increased costs and an estimate of the cost and rate increase, computed according to allowable methods, necessary to fund the costs;

(b) A detailed written justification for granting the adjustment; and

(c) For a request made under subsection (3) of this section, a financial analysis which sufficiently demonstrates the increased costs cannot be funded from existing resources and which demonstrates the extent of such underfunding.

(6) The department shall inform a contractor of the disposition of a rate adjustment request within sixty days after its receipt by the department if the request is adequately documented and meets the conditions set forth in this section. Unless otherwise specified, a rate adjustment shall be effective on the first day of the month in which it is issued by the department.

(7) This section shall apply to requests for prospective rate adjustments or for periods prior to May 20, 1985. [Statutory Authority: RCW 74.09.120 and 74.46.800. 85-13-065 (Order 2245), § 388-96-773, filed 6/18/85. Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-773, filed 9/16/83.]

WAC 388-96-774 Prospective rate revisions. (1) Each contractor's reimbursement rates will be determined prospectively at least once each calendar year, to be effective July 1st. All prospective reimbursement rates for 1984 and thereafter shall be determined utilizing the prior year's desk-reviewed cost reports. Prospective rates shall be maximum payment rates for contractors for the periods to which they apply and revisions may be granted for inflation only as authorized in WAC 388-96-719(3) and for cost increases as authorized in this section. This section shall apply to rate revision requests and periods subsequent to May 20, 1985.

(2) Rates shall be adjusted for any capitalized additions or replacements made as a condition for licensure or certification.

(3) Rates may be adjusted as determined by the department for the following:

(a) Variations of more than ten percent in the distribution of patient classifications or changes in patient characteristics from the prior reporting year.

(b) Program changes required by the department.

(c) Changes in staffing levels at a facility required by the department.

(d) Changes required by survey.

(4) Contractors requesting an adjustment must submit:

(a) A financial analysis showing the increased cost and an estimate of the rate increase, computed according to allowable methods, necessary to fund the cost;

(b) A written justification for granting the rate increase; and

(c) A certification and supporting documentation which shows the changes in staffing or other improvements have been commenced or completed.

(5) Contractors receiving prospective rate increases pursuant to this section must submit quarterly reports, beginning the first day of the month following the date the increase is granted, showing how the additional rate funds were spent. If the funds were not spent for changes or improvements approved by the department in

granting the adjustment, they shall be subject to immediate recovery by the department.

(6) A contractor requesting an adjustment pursuant to subsection (3)(a) of this section shall submit a written plan specifying additional staff to be added and the patient care needs the facility has been unable to meet due to lack of sufficient staff.

(7) In reviewing a request made under subsection (3) of this section, the department shall consider:

(a) Whether additional staff requested by a contractor is appropriate in meeting patient care needs.

(b) Comparisons of staffing levels of facilities having similar patient characteristics.

(c) The physical layout of the facility.

(d) Supervision and management of current staff.

(e) Historic trends in underspending of a facility's nursing services component rate.

(f) Numbers and positions of existing staff. [Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-774, filed 8/19/85.]

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 appropriate director or his or her designee review such determination. The request shall be forwarded to the director, audit division, if the challenge pertains to audit findings (adjusting journal entries or AJEs) or other audit matters, or to the director, bureau of nursing home affairs (director, BNHA) for other matters (such as rates, desk reviews, and settlements). 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 earlier than fourteen days after the contractor was notified of the conference and no later than ninety 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 appropriate director or his or her designee will be furnished to the contractor within sixty days after the conclusion of the conference.

(5) A contractor who is aggrieved by a decision of the director may appeal the decision in an administrative hearing.

(a) A contractor who desires an administrative hearing shall file a written request for a hearing with the department's office of hearings (mailing address: P.O. Box 2465, Olympia, WA 98504). The request for hearing must be filed within thirty days of the date the contractor received the decision of the director that he or she desires to appeal. A copy of the director's decision being appealed must be attached to the request for hearing. The request shall be signed by the contractor or the licensed administrator of the facility, and shall state as specifically as practicable the issue or issues and regulation or regulations involved, and the grounds for contending the director's decision is erroneous. Copies of any documentation on which the contractor intends to rely to support its position shall be included with the request.

(b) Sections of chapter 388-08 WAC not conflicting with this section shall apply to a hearing requested under WAC 388-96-904(5). [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-96-904, filed 2/17/84. Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-904, filed 10/13/82; Order 1262, § 388-96-904, filed 12/30/77.]

Chapter 388-99 WAC

LIMITED CASUALTY PROGRAM--MEDICALLY NEEDY

WAC	
388-99-010	Persons eligible for medically needy assistance.
388-99-020	Eligibility determination—Medically needy in own home.
388-99-030	Allocation of excess income—Spendedown.
388-99-035	Resource standards.
388-99-040	Availability of resources.
388-99-055	Certification.
388-99-060	Scope of care for medically needy.

WAC 388-99-010 Persons eligible for medically needy assistance. 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:

- (1) Related to aid to families with dependent children (AFDC). See chapter 388-83 WAC.
- (2) Related to supplemental security income (SSI). See chapter 388-92 WAC.
- (3) Related to state supplementary payment program (SSP).

- (4) Under age twenty-one and in:
 - (a) Foster care, or
 - (b) Subsidized adoption, or
 - (c) Skilled nursing facility, intermediate care facility, intermediate care facility/mentally retarded,
 - (d) An approved inpatient psychiatric facility.
- (5) Aged, blind, or disabled and residing in a medical facility with income above the three hundred percent of the SSI benefit cap.
- (6) The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse if:
 - (a) The ineligible spouse is related to the SSI program due to being aged, blind, or disabled; and
 - (b) The ineligible spouse is not receiving an SSI payment in his/her own right; and
 - (c) The income of the couple, including SSI payment, are considered.
- (7) A child under five years of age, born after September 30, 1983.
- (8) A pregnant woman who does not meet the aid to families with dependent children deprivation and income requirements. For this subsection the period of eligibility includes the six weeks following delivery to cover the post partum care. [Statutory Authority: RCW 74.08-.090. 85-17-036 (Order 2269), § 388-99-010, filed 8/15/85; 85-07-049 (Order 2218), § 388-99-010, filed 3/20/85; 85-03-070 (Order 2191), § 388-99-010, filed 1/17/85; 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 388-99-020 Eligibility determination--Medically needy in own home. (1) The medically needy income level (MNIL) shall be:

(a) One person	\$ 364
(b) Two persons	\$ 517
(c) Three persons	\$ 544
(d) Four persons	\$ 561
(e) Five persons	\$ 646
(f) Six persons	\$ 731
(g) Seven persons	\$ 847
(h) Eight persons	\$ 936
(i) Nine persons	\$ 1,028
(j) Ten persons and above	\$ 1,117

(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, where more than one assistance unit exists, determine income for the AFDC related assistance unit according to subsection (2) of this section, and for the SSI related assistance unit according to subsection (3) of this section. [Statutory Authority: RCW 74.08.090. 85-16-047 (Order 2263), § 388-99-020, filed 7/31/85; 85-05-016 (Order 2206), § 388-99-020, filed 2/13/85; 84-17-013 (Order 2133), § 388-99-020, filed 8/3/84; 84-05-039 (Order 2075), § 388-99-020, filed 2/17/84; 83-17-094 (Order 2006), § 388-99-020, filed 8/23/83; 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--Spenddown. (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.

(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 within thirty days of the end of the base period. 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. 85-05-016 (Order 2206), § 388-99-030, filed 2/13/85; 84-07-017 (Order 2083), § 388-99-030, filed 3/14/84; 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) The total value of resources allowed and not otherwise excluded shall not exceed the dollar amount in (a) of this subsection for a single individual or the dollar amount in (b) of this subsection for a couple. This amount is increased by \$50 for each additional family member in the household. If applicant has resources in excess of the standards the individual is not eligible and the application is denied.

(a) The resource limitation for a single individual shall be \$1,500 prior to January 1, 1985 and shall be increased to \$1,600 on January 1, 1985, to \$1,700 on January 1, 1986, to \$1,800 on January 1, 1987, to \$1,900 on January 1, 1988 and to \$2,000 on January 1, 1989.

(b) The resource limitation for a couple shall be \$2,250 prior to January 1, 1985, and shall be increased to \$2,400 on January 1, 1985, to \$2,550 on January 1, 1986, to \$2,700 on January 1, 1987, to \$2,850 on January 1, 1988, and to \$3,000 on January 1, 1989.

(2) See WAC 388-92-043 for regulations on transfer of resources without adequate consideration. [Statutory Authority: RCW 74.08.090. 85-03-072 (Order 2194), § 388-99-035, filed 1/17/85; 83-13-071 (Order 1972), § 388-99-035, filed 6/16/83; 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 for SSI-related medically needy. For AFDC-related medically needy, consider resources as they would be considered in determining AFDC financial eligibility.

The resource standard for all medically needy is as listed in WAC 388-99-035.

(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. 84-02-054 (Order 2062), § 388-99-040, filed 1/4/84; 81-16-032 (Order 1684), § 388-99-040, 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 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) All medically needy applicants shall receive individual notification of the disposition of their application.

(8) Any change in circumstances shall be reported within twenty days to the local community service office.

(9) 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. 85-05-016 (Order 2206), § 388-99-055, filed 2/13/85; 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 early and periodic screening, diagnosis and treatment (EPSDT) services; family planning clinic services; inpatient hospital services; outpatient hospital and rural health clinic services; physical medicine and rehabilitation 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) For other conditions and limitations under which these services may be provided, refer to appropriate service in chapter 388-86 WAC.

(3) 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. 85-17-035 (Order 2268), § 388-99-060, filed 8/15/85; 83-03-016 (Order 1937), § 388-99-060, filed 1/12/83; 81-16-032 (Order 1684), § 388-99-060, filed 7/29/81.]

Chapter 388-100 WAC

LIMITED CASUALTY PROGRAM--MEDICALLY INDIGENT

WAC

388-100-001	Effective dates.
388-100-005	Limited casualty program--Medically indigent.
388-100-010	Limited casualty program--Medically indigent--Eligibility determination.
388-100-025	Certification.
388-100-035	Scope of care for medically indigent.

WAC 388-100-001 Effective dates. Regulations contained in chapter 388-100 WAC, WAC 388-100-005 through 388-100-035, shall be limited to:

(1) Individuals whose applications for medical care are received by the department during the period beginning June 1, 1981, and ending April 30, 1985 and who have met the certification requirements of WAC 388-100-025(1) on or before April 30, 1985. Applications or reapplications, for medical care under this chapter, received on or after May 1, 1985, and prior to July 11, 1985, shall be denied, except as specified in subsection (2) of this section.

(2) Individuals whose applications are received on or after July 11, 1985. For the purpose of this subsection applications delivered to the department prior to July 11, 1985, for medical care received on or after July 1, 1985, shall be considered to have been received on July 11, 1985. [Statutory Authority: RCW 74.08.090. 85-17-034 (Order 2267), § 388-100-001, filed 8/15/85.]

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 medical condition. (i) An acute and emergent medical condition is defined as having a short and relatively severe course, not chronic; occurring unexpectedly and demanding immediate action, (ii) pregnancy is considered an acute and emergent medical condition for the medically indigent program;

treatment under the Involuntary Treatment Act (ITA) is considered an acute and emergent need; and

(b) Meets the financial eligibility as defined in chapter 388-100 WAC. [Statutory Authority: RCW 74.08.090. 84-02-054 (Order 2062), § 388-100-005, filed 1/4/84; 83-13-071 (Order 1972), § 388-100-005, filed 6/16/83; 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 and residency are not requirements for eligibility. However, (a) an individual who is eligible for medical care from another state is not eligible for LCP-MI, (b) an individual who enters Washington state specifically for the purpose of obtaining medical care is not eligible for LCP-MI.

(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. 84-02-054 (Order 2062), § 388-100-010, filed 1/4/84; 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 388-100-025 Certification. (1) An applicant shall be certified from the date spenddown and deductible requirements are met through the duration of treatment for the acute and emergent medical condition not to exceed the three calendar month period which begins with the month of application.

(2) An applicant who has been medically determined to be pregnant may apply and be certified for separate three-month periods through the duration of the pregnancy. The three-month limitation in subsection (1) of

this section may be extended up to six weeks after delivery to cover 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) All medically indigent applicants shall be individually notified in writing of the disposition of their application.

(4) Any change in circumstances shall be promptly reported to the local community services office.

(5) 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. Except that for applications received on or after July 11, 1985, certification cannot be made for any days during the period prior to July 1, 1985. [Statutory Authority: RCW 74.08.090. 85-17-034 (Order 2267), § 388-100-025, filed 8/15/85; 83-13-071 (Order 1972), § 388-100-025, filed 6/16/83; 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 388-100-035 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. Services available are limited to the following: Inpatient hospital services; outpatient hospital and rural health clinic services; physical medicine and rehabilitation 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) The deductible in WAC 388-100-030 does not apply for treatment under the Involuntary Treatment Act (ITA). When any other medical need is identified for recipients undergoing treatment under the Involuntary Treatment Act the requirements for the deductible shall apply to the services other than ITA.

(4) 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.

(5) For other conditions and limitations under which these services may be provided refer to appropriate service in chapter 388-86 WAC.

(6) No out-of-state care is provided except in the designated bordering cities. [Statutory Authority: RCW 74.08.090. 86-02-031 (Order 2321), § 388-100-035, filed 12/27/85; 85-17-035 (Order 2268), § 388-100-035, filed 8/15/85; 84-02-054 (Order 2062), § 388-100-035, filed 1/4/84; 83-17-071 (Order 2009), § 388-

100-035, filed 8/19/83; 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.]

Title 389 WAC
PUBLIC DEPOSIT PROTECTION
COMMISSION

Chapter
389-12 Practice and procedure--Public
depositories.

Chapter 389-12 WAC
PRACTICE AND PROCEDURE--PUBLIC
DEPOSITORIES

WAC

389-12-010	Promulgation.
389-12-020	Definitions.
389-12-030	New qualified public depositories.
389-12-040	Computation and report of maximum liability.
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389-12-100	Violations--Penalty.
389-12-130	Financial institution mergers.
389-12-230	Operations and procedures.
389-12-270	Requests for public records.

WAC 389-12-010 Promulgation. The public deposit protection commission, hereinafter referred to as the "commission," after due and proper notice, and pursuant to the provisions of chapter 193, Laws of 1969 1st sess., as last amended by chapter 177, Laws of 1984, hereinafter referred to as the "act," hereby adopts and promulgates the following rules and regulations, effective October 10, 1984. [Statutory Authority: RCW 39-.58.040. 84-21-036 (Order 84-II, Resolution No. 84-004), § 389-12-010, filed 10/11/84; 84-03-037 (Order 84-01), § 389-12-010, filed 1/13/84; Order 77-XIII, § 389-12-010, filed 9/27/77; Order II, § 389-12-010, filed 6/13/73; Order 1, § 389-12-010, filed 2/9/70.]

WAC 389-12-020 Definitions. Unless the context requires otherwise:

(1) **Qualified public depository.** "Qualified public depository" means a financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the commission to hold public deposits.

(2) **Financial institution.** A "financial institution" means any of the following which are located in this state and are lawfully engaged in business:

(a) **Bank depositories**—Any branch of a bank engaged in the banking business in this state in accordance with

RCW 30.04.300, and any state bank or trust company or national banking association.

(b) **Thrift depositories**—Any state chartered mutual savings bank or stock savings bank, any state or federally chartered savings and loan association (including federally chartered savings bank).

(3) **Investment deposits.** The term "investment deposit" shall mean time deposits and savings deposits of public funds available for investment. Savings deposit shall mean an interest bearing deposit of public funds that is subject to withdrawal and that is not payable on a specified date or at the expiration of a specified time after the date of deposit. Time deposit shall mean a single maturity or multiple maturity interest bearing investment deposit of public funds, which is either evidenced by a certificate of deposit issued by a qualified public depository, or reflected in a book-entry system of such depository approved by federal regulatory authorities, state supervisor of banking and/or state supervisor of savings and loan associations, and which is payable to a treasurer on a date certain. Such certificate shall not be negotiable, nor an interest in an investment deposit transferable, except between treasurers and/or qualified public depositories.

(4) **Commission report.** The "commission report" shall mean a formal accounting rendered by qualified public depositories to the commission, which details pertinent information of each depository as of the close of the last business day of each calendar quarter; the commission report is due in the office of the commission not later than thirty days after the end of the calendar quarter.

(5) **Date of loss.** The term "date of loss" shall mean the date on which a loss shall be deemed to have occurred within the meaning of the act, and shall be the first to happen of the following:

(a) The date of the taking of possession of the financial institution by a supervisory agency; or

(b) The date of the appointment of the receiver or conservator for a financial institution; or

(c) The date of the commencement of a voluntary liquidation proceeding for a financial institution; or

(d) The date of an order issued by a regulatory authority or a court of competent jurisdiction restraining a financial institution from making payments on deposit liabilities; or

(e) The date on which the commission declares that a financial institution no longer has the ability to repay public deposits in full.

(6) **Depository pledge agreement.** "Depository pledge agreement" means a written tri-party agreement, on a form supplied by the commission, wherein a financial institution, in compliance with the act and as a condition precedent to becoming or continuing to be a qualified public depository, transfers and delivers securities which are eligible collateral to a corporate fiduciary under the exercise of its trust powers, to a federal reserve bank or any branch thereof or federal home loan bank or any branch thereof, which agrees to safekeep such securities for the primary benefit of the commission under the terms and conditions of the agreement and for the purposes set forth by the act and the regulations of the