

# Title 388 WAC

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

<p><b>Chapters</b></p> <p>388-07    Abbreviations.</p> <p>388-08    Practice and procedure--Fair hearing.</p> <p>388-09    Practice and procedure--Administrative hearing--Child welfare agency.</p> <p>388-10    Protection of human research subjects.</p> <p>388-11    Child support--Obligations.</p> <p>388-13    Recovery of support payments.</p> <p>388-14    Support enforcement.</p> <p>388-15    Social services for families, children and adults.</p> <p>388-17    Senior citizens services program.</p> <p>388-18    Long-term care ombudsman program.</p> <p>388-20    Exception to rule.</p> <p>388-22    Determining and verifying eligibility--Definitions.</p> <p>388-24    Aid to families with dependent children--Eligibility.</p> <p>388-26    Aid to families with dependent children and continuing general assistance--Eligibility--Common conditions.</p> <p>388-28    Aid to families with dependent children and continuing general assistance--Eligibility need.</p> <p>388-29    Standards--Eligibility.</p> <p>388-33    Aid to families with dependent children and continuing general assistance--Grant or vendor payment.</p> <p>388-34    Person in institution--Eligibility--Payment.</p> <p>388-37    General assistance--Eligibility--Standards of assistance--Payment.</p> <p>388-38    Application.</p> <p>388-40    Alcoholism detoxification program.</p> <p>388-42    Funeral expense.</p> <p>388-44    Overpayment--Repayment.</p> <p>388-46    Recipient fraud--Referral to prosecutor.</p> <p>388-52    Services involving other agencies.</p> <p>388-53    Disaster and relief program--Individual and family grant.</p> <p>388-53A    Temporary housing program--Limited to governor's request for federal assistance.</p> <p>388-54    Food assistance programs.</p> <p>388-55    Refugee assistance.</p> <p>388-57    Employment and training--Work incentive.</p> <p>388-59    Emergency assistance as loans to supplemental security income beneficiaries.</p> <p>388-62    Repatriated United States citizens--Assistance.</p>	<p>388-70    Child welfare services--Foster care--Adoption services--Services to unmarried parents.</p> <p>388-71    Interstate Compact on the placement of children.</p> <p>388-73    Child care agencies--Adult family homes minimum licensing/certification requirements.</p> <p>388-76    Adult family homes minimum licensing requirements.</p> <p>388-80    Medical care--Definitions.</p> <p>388-81    Medical care--Administration--General.</p> <p>388-82    Medical care--Program described--Limitations.</p> <p>388-83    Medical care--Eligibility.</p> <p>388-84    Medical care--Application.</p> <p>388-85    Medical care--Certification.</p> <p>388-86    Medical care--Services provided.</p> <p>388-87    Medical care--Payment.</p> <p>388-88    Medical care--Nursing home care.</p> <p>388-90    Skilled nursing home care in state schools for retarded persons.</p> <p>388-91    Medical care--Drugs.</p> <p>388-92    Medical care for persons receiving benefits under Title XVI of Social Security Act--Eligibility--Income and resource standards for applicants in own home.</p> <p>388-93    Medical care for grandfathered recipients.</p> <p>388-95    Institutional--Medical assistance--Eligibility.</p> <p>388-96    Nursing home accounting and reimbursement system.</p> <p>388-98    Nursing home licensure program administration.</p> <p>388-99    Limited casualty program--Medically needy.</p> <p>388-100    Limited casualty program--Medically indigent.</p> <p>388-320    Public records--Disclosure.</p>
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**DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE**

<p><b>Chapter 388-12</b></p> <p><b>PUBLIC ASSISTANCE--PURPOSE--OBJECTIVES</b></p>	
<p>388-12-010</p> <p>388-12-020</p>	<p>Major purpose and objectives of public assistance--Purpose. [Regulation 2.10, filed 1/25/67; Regulation 2.10, filed 6/17/67, 1/24/64.] Repealed by Order 526, filed 3/31/71, effective 5/1/71.</p> <p>Major purpose and objectives of public assistance--Objectives. [Regulation 2.20, filed 1/25/67; Regulation 2.20, filed 6/17/64, 1/24/64.] Repealed by Order 526, filed 3/31/71, effective 5/1/71.</p>

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

**Chapter 388-16**

**SOCIAL SERVICES IN PUBLIC ASSISTANCE**

- 388-16-010 Aid to families with dependent children services—Purposes and objectives. [Regulation 3.11, filed 7/27/67; Regulation 3.11, filed 1/25/67, 6/14/66, 6/17/64; Regulation 3.12, filed 6/14/66, 6/17/64.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-015 Aid to families with dependent children services—Definitions. [Order 527, § 388-16-015, filed 3/31/71, effective 5/1/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-020 Aid to families with dependent children services—Rights of applicants and recipients. [Order 527, § 388-16-020, filed 3/31/71, effective 5/1/71; Regulation 3.12, filed 7/27/67; Regulation 3.12, filed 1/25/67, 6/14/66, 6/17/64; Regulation 3.122, filed 6/14/66.] Repealed by Order 1088, filed 1/19/76.
- 388-16-050 Aid to families with dependent children services—Eligible persons. [Order 729, § 388-16-050, filed 10/27/72; Order 670, § 388-16-050, filed 4/14/72; Order 527, § 388-16-050, filed 3/31/71, effective 5/1/71; Regulation 3.14, filed 7/27/67.] Repealed by Order 1088, filed 1/19/76.
- 388-16-055 Aid to families with dependent children services—Services for eligible persons. [Order 729, § 388-16-055, filed 10/27/72; Order 670, § 388-16-055, filed 4/14/72.] Repealed by Order 1088, filed 1/19/76.
- 388-16-060 Aid to families with dependent children services—Defined service families—Services provided. [Order 527, § 388-16-060, filed 3/31/71, effective 5/1/71; Regulation 3.141, filed 7/27/67; Regulation 3.141, filed 5/17/67, 1/25/67, 6/14/66.] Repealed by Order 1088, filed 1/19/76.
- 388-16-070 Aid to families with dependent children services—Intake services and initial social studies. [Regulation 3.142, filed 7/27/67; Regulation 3.142, filed 1/27/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-075 Aid to families with dependent children services—Community planning. [Regulation 3.143, filed 7/27/67; Regulation 3.1421, filed 1/25/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-080 Aid to families with dependent children services—Continued care cases. [Regulation 3.144, filed 7/27/67; Regulation 3.143, filed 1/25/67, 6/14/66.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-110 Aid to families with dependent children services—Duration of service. [Order 527, § 388-16-110, filed 3/31/71, effective 5/1/71; Regulation 3.145, filed 7/27/67; Regulation 3.144, filed 1/25/67, 6/14/66.] Repealed by Order 1088, filed 1/19/76.
- 388-16-115 AFDC services—Family planning services. [Order 1204, § 388-16-115, filed 4/1/77; Order 1088, § 388-16-115, filed 1/19/76; Order 527, § 388-16-115, filed 3/31/71, effective 5/1/71; Order 364, § 388-16-115, filed 7/9/69.] Repealed by Order 1238, filed 8/31/77.
- 388-16-120 Services standards. [Regulation 3.15, filed 7/27/67; Regulation 3.17 (part), filed 6/14/66, 6/17/64.]

- Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-150 Selection of best qualified staff—Assignment by county administrators. [Regulation 3.16, filed 7/27/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-160 Aid to families with dependent children service case—Definition. [Regulation 3.17, filed 7/27/67; Regulation 3.19, filed 1/25/67, 6/14/66, 6/17/69.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-170 Recording of services. [Regulation 3.18, filed 7/27/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-180 Complementary services. [Regulation 3.19, filed 7/27/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-190 Homemaker service. [Regulation 3.191, filed 7/27/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-200 Special services for self-support. [Regulation 3.192, filed 7/27/67.] Repealed by Order 392, filed 10/15/69.
- 388-16-210 Aid to families with dependent children services—Day care and in-home care (baby-sitting) services. [Order 1001, § 388-16-210, filed 1/14/75; Order 925, § 388-16-210, filed 4/15/74; Order 828, § 388-16-210, filed 7/26/73; Order 720, § 388-16-210, filed 9/28/72; Order 692, § 388-16-210, filed 6/29/72; Order 611, § 388-16-210, filed 9/23/71; Order 551, § 388-16-210, filed 4/1/71; Order 527, § 388-16-210, filed 3/31/71, effective 5/1/71; Emergency Order 569, § 388-16-210, filed 5/25/71; Order 439, § 388-16-210, filed 4/15/70; Order 425, § 388-16-210, filed 1/21/70; Order 392, § 388-16-210, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76.
- 388-16-213 Standards of in-home care. [Order 828, § 388-16-213, filed 7/26/73.] Repealed by Order 1088, filed 1/19/76.
- 388-16-215 Standards of in-home care—Payment standards for day care and in-home care. [Order 1052, § 388-16-215, filed 9/10/75; Order 907, § 388-16-215, filed 2/14/74; Order 720, § 388-16-215, filed 9/28/72; Order 692, § 388-16-215, filed 6/29/72; Order 611, § 388-16-215, filed 9/23/71; Order 527, § 388-16-215, filed 3/31/71, effective 5/1/71; Order 425, § 388-16-215, filed 1/21/70; Order 392, § 388-16-215, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76.
- 388-16-220 Standards of in-home care—Summer camperships—Standards for purchase. [Order 576, § 388-16-220, filed 7/8/71; Order 527, § 388-16-220, filed 3/31/71, effective 5/1/71; Order 460, § 388-16-220, filed 6/17/70.] Repealed by Order 1088, filed 1/19/76.
- 388-16-225 Purchase of child welfare services—Agency—Licensing—Federal requirements. [Order 784, § 388-16-225, filed 3/30/73.] Repealed by Order 1238, filed 8/31/77.
- 388-16-300 Personal service in alternate care living arrangement—Purposes and objectives. [Order 318, § 388-16-300, filed 11/27/68.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-305 Personal service in alternate care—Definition. [Order 933, § 388-16-305, filed 5/15/74; Order 527, § 388-16-305, filed 3/31/71, effective 5/1/71; Order 318, § 388-16-305, filed 11/27/68.] Repealed by Order 1088, filed 1/19/76.
- 388-16-310 Personal service in alternate care—Persons eligible. [Order 933, § 388-16-310, filed 5/15/74; Order 527, § 388-16-310, filed 3/31/71, effective 5/1/71; Order 318, § 388-16-310, filed 11/27/68.] Repealed by Order 1088, filed 1/19/76.
- 388-16-315 Personal service in alternate care—Plan for services and supervision. [Order 933, § 388-16-315, filed 5/15/74; Order 527, § 388-16-315, filed 3/31/71,

- effective 5/1/71; Order 318, § 388-16-315, filed 11/27/68.] Repealed by Order 1088, filed 1/19/76.
- 388-16-320 Personal service in alternate care living arrangement—Acceptance of plan for person referred by mental hospital. [Order 318, § 388-16-320, filed 11/27/68.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-325 Personal service in alternate care—Services provided. [Order 933, § 388-16-325, filed 5/15/74; Order 527, § 388-16-325, filed 3/31/71, effective 5/1/71; Order 318, § 388-16-325, filed 11/27/68.] Repealed by Order 1088, filed 1/19/76.
- 388-16-330 Personal service in alternate care living arrangement—Standards for administration. [Order 318, § 388-16-330, filed 11/27/68.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-335 Congregate care—Definition. [Order 965, § 388-16-335, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-336 Congregate care—Eligible persons. [Order 965, § 388-16-336, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-337 Congregate care—Determination of need. [Order 965, § 388-16-337, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-338 Congregate care—Placement in facility. [Order 965, § 388-16-338, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-339 Congregate care—Absence or discharge. [Order 965, § 388-16-339, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-340 Congregate care—Payment—Standards—Procedures. [Order 1017, § 388-16-340, filed 4/14/75; Order 965, § 388-16-340, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-341 Congregate care—Application. [Order 965, § 388-16-341, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-342 Congregate care—Services to be provided by operator. [Order 965, § 388-16-342, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-343 Congregate care—Agreement. [Order 965, § 388-16-343, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-400 Adult services—Objectives. [Order 625, § 388-16-400, filed 11/11/71; Order 527, § 388-16-400, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-400, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76.
- 388-16-402 Adult services—Eligible persons. [Order 933, § 388-16-402, filed 5/15/74; Order 625, § 388-16-402, filed 11/11/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-405 Adult services—Rights of applicant, recipient and beneficiary. [Order 933, § 388-16-405, filed 5/15/74; Order 527, § 388-16-405, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-405, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76.
- 388-16-410 Adult services—Entry services. [Order 933, § 388-16-410, filed 5/15/74; Order 625, § 388-16-410, filed 11/11/71; Order 527, § 388-16-410, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-410, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76.
- 388-16-415 Adult services—Ongoing services. [Order 933, § 388-16-415, filed 5/15/74; Order 527, § 388-16-415, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-415, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76.
- 388-16-425 Chore services for adult without minor child in home—Objective—Definition—Eligible persons. [Order 933, § 388-16-425, filed 5/15/74; Order 601, § 388-16-425, filed 9/8/71.] Repealed by Order 1088, filed 1/19/76. Later promulgation, see WAC 388-16-42501.
- 388-16-42501 Chore services—Objective—Definition—Eligible persons. [Order 1088, § 388-16-425 (codified as WAC 388-16-42501), filed 1/19/76. Formerly WAC 388-16-425.] Repealed by Order 1238, filed 8/31/77.
- 388-16-430 Chore services—Standards for determining need. [Order 1088, § 388-16-430, filed 1/19/76; Order 933, § 388-16-430, filed 5/15/74; Order 601, § 388-16-430, filed 9/8/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-435 Chore services for adult without minor child in home—Standards for payment of cost—FICA tax. [Order 933, § 388-16-435, filed 5/15/74; Order 692, § 388-16-435, filed 6/29/72; Order 649, § 388-16-435, filed 2/9/72; Order 601, § 388-16-435, filed 9/8/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-440 Chore services for adult without minor child in home—Continuing eligibility. [Order 601, § 388-16-440, filed 9/8/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-450 Homemaker service to adults—Purpose and objectives. [Order 933, § 388-16-450, filed 5/15/74; Order 527, § 388-16-450, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-450, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76.
- 388-16-455 Homemaker services—Policies for providing. [Order 1088, § 388-16-455, filed 1/19/76; Order 933, § 388-16-455, filed 5/15/74; Order 527, § 388-16-455, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-455, filed 10/15/69.] Repealed by Order 1238, filed 8/31/77.
- 388-16-460 Homemaker service—Definition and purpose. [Order 1088, § 388-16-460, filed 1/19/76; Order 608, § 388-16-460, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-462 Homemaker services—Payment. [Order 1088, § 388-16-462, filed 1/19/76; Order 608, § 388-16-462, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-464 Homemaker services—Staff. [Order 1088, § 388-16-464, filed 1/19/76; Order 608, § 388-16-464, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-466 Homemaker service for families with children—Conditions and limitations when provided. [Order 608, § 388-16-466, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-470 Adult services—Purchase of service—Sheltered workshop and activity center—Other providers—Purpose. [Order 933, § 388-16-470, filed 5/15/74; Order 589, § 388-16-470, filed 8/18/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-475 Adult services—Persons eligible. [Order 933, § 388-16-475, filed 5/15/74; Order 589, § 388-16-475, filed 8/18/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-480 Adult services—Payment. [Order 933, § 388-16-480, filed 5/15/74; Order 589, § 388-16-480, filed 8/18/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-482 Summer camperships for adults—Definition. [Order 690, § 388-16-482, filed 6/15/72.] Repealed by Order 933, filed 5/15/74.
- 388-16-484 Summer camperships for adults—Persons eligible. [Order 690, § 388-16-484, filed 6/15/72.] Repealed by Order 933, filed 5/15/74.
- 388-16-486 Summer camperships for adults—Selection of individuals. [Order 690, § 388-16-486, filed 6/15/72.] Repealed by Order 933, filed 5/15/74.
- 388-16-488 Summer camperships for adults—Payment conditions. [Order 690, § 388-16-488, filed 6/15/72.] Repealed by Order 933, filed 5/15/74.
- 388-16-490 Services to adult offender—Definitions. [Order 608, § 388-16-490, filed 9/22/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-495 Services to adult offender—Persons eligible. [Order 608, § 388-16-495, filed 9/22/71.] Repealed by Order 1088, filed 1/19/76.

- 388-16-500 Child protective services—Legislative declaration—Duty to provide. [Order 1078, § 388-16-500, filed 12/24/75; Order 608, § 388-16-500, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-505 Child protective services—Definitions. [Order 1078, § 388-16-505, filed 12/24/75; Order 608, § 388-16-505, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-510 Child protective services—Acceptance of reports—Eligibility for services. [Order 1152, § 388-16-510, filed 9/22/76; Order 1078, § 388-16-510, filed 12/24/75; Order 828, § 388-16-510, filed 7/26/73; Order 608, § 388-16-510, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-512 Child protective services—Notification—Substantiation. [Order 1078, § 388-16-512, filed 12/24/75; Order 984, § 388-16-512, filed 11/29/74; Order 828, § 388-16-512, filed 7/26/73.] Repealed by Order 1238, filed 8/31/77.
- 388-16-515 Child abuse—Mandatory reporting—Immunity from civil liability. [Order 1078, § 388-16-515, filed 12/24/75; Order 984, § 388-16-515, filed 11/29/74; Order 608, § 388-16-515, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-520 Child abuse—Information to be reported. [Order 1078, § 388-16-520, filed 12/24/75; Order 608, § 388-16-520, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-525 Central registry—Definition—Duty to maintain. [Order 1075, § 388-16-525, filed 12/17/75; Order 984, § 388-16-525, filed 11/29/74; Order 828, § 388-16-525, filed 7/26/73; Order 693, § 388-16-525, filed 6/29/72; Order 608, § 388-16-525, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-530 Central registry—Purpose. [Order 693, § 388-16-530, filed 6/29/72; Order 608, § 388-16-530, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-535 Central registry—Storage and retrieval of information. [Order 984, § 388-16-535, filed 11/29/74; Order 828, § 388-16-535, filed 7/26/73; Order 693, § 388-16-535, filed 6/29/72; Order 608, § 388-16-535, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-540 Central registry—Information—Release—Dissemination—Expungement. [Order 1078, § 388-16-540, filed 12/24/75; Order 984, § 388-16-540, filed 11/29/74; Order 828, § 388-16-540, filed 7/26/73; Order 693, § 388-16-540, filed 6/29/72.] Repealed by Order 1238, filed 8/31/77.
- 388-16-545 Central registry—Eligibility procedures and criteria. [Order 1075, § 388-16-545, filed 12/17/75; Order 984, § 388-16-545, filed 11/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-550 Support enforcement services for child(ren) not receiving public assistance—Statutory basis. [Order 624, § 388-16-550, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-555 Support enforcement services for child(ren) not receiving public assistance—Persons eligible. [Order 624, § 388-16-555, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-560 Support enforcement services for child(ren) not receiving public assistance—Application. [Order 624, § 388-16-560, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-565 Support enforcement services for child(ren) not receiving public assistance—Applicant's assignment of rights. [Order 624, § 388-16-565, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-570 Support enforcement services for child(ren) not receiving public assistance—Fees—Limitations. [Order 624, § 388-16-570, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-575 Support enforcement services for child(ren) not receiving public assistance—Disposition of absent parent payments to custodian of child(ren). [Order 624, § 388-16-575, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-580 Support enforcement services for child(ren) not receiving public assistance—Department's obligation after accepting application. [Order 624, § 388-16-580, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-585 Support enforcement services for child(ren) not receiving public assistance—Request to terminate service. [Order 624, § 388-16-585, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.

## Chapter 388-30

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

- 388-30-010 Continuing eligibility. [Order 533, § 388-30-010, filed 3/31/71, effective 5/1/71; Regulation 9.00, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-015 Factors not common to all categories—Old age assistance. [Regulation 9.11, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-30-020 Continuing eligibility—Aid to blind. [Order 533, § 388-30-020, filed 3/31/71, effective 5/1/71; Regulation 9.12, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-30-025 Continuing eligibility—Aid to families with dependent children. [Order 976, § 388-30-025, filed 10/28/74; Order 918, § 388-30-025, filed 3/14/74; Order 830, § 388-30-025, filed 7/26/73; Order 533, § 388-30-025, filed 3/31/71, effective 5/1/71; Order 321, § 388-30-025, filed 11/27/68; Regulation 9.13, filed 8/29/66; Regulation 9.13, filed 6/17/64, effective 8/1/64, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-030 Continuing eligibility—Disability assistance. [Order 637, § 388-30-030, filed 1/13/72; Order 533, § 388-30-030, filed 3/31/71, effective 5/1/71; Regulation 9.14, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-30-040 Continuing eligibility—Continuing general assistance to unemployable persons. [Order 533, § 388-30-040, filed 3/31/71, effective 5/1/71; Order 490, § 388-30-040, filed 10/30/70, effective 12/1/70; Regulation 9.15, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-30-050 Continuing eligibility—Age. [Order 917, § 388-30-050, filed 3/14/74; Order 620, § 388-30-050, filed 10/27/71; Order 533, § 388-30-050, filed 3/31/71, effective 5/1/71; Order 490, § 388-30-050, filed 10/30/70, effective 12/1/70; Order 367, § 388-30-050, filed 7/9/69; Regulation 9.21, filed 12/31/65; Regulation 9.21, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-055 Continuing eligibility—Residence. [Order 533, § 388-30-055, filed 3/31/71, effective 5/1/71; Order 490, § 388-30-055, filed 10/30/70, effective 12/1/70; Order 367, § 388-30-055, filed 7/9/69; Regulation 9.221, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-060 Continuing eligibility—Institutional living arrangement. [Order 533, § 388-30-060, filed 3/31/71, effective 5/1/71; Regulation 9.23, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-065 Continuing eligibility—Transfer of exempt property. [Order 533, § 388-30-065, filed 3/31/71, effective 5/1/71; Regulation 9.24, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-070 Continuing eligibility—Exempt property transferable without consent. [Order 533, § 388-30-070, filed 3/31/71, effective 5/1/71; Order 459, § 388-30-070, filed 5/26/70, effective 7/1/70; Regulation 9.241, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.

- 388-30-075 Continuing eligibility—Exempt property transferable with consent. [Order 533, § 388-30-075, filed 3/31/71, effective 5/1/71; Order 459, § 388-30-075, filed 5/26/70, effective 7/1/70; Regulation 9.242, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-078 Replacement of exempt property. [Order 1194, § 388-30-078, filed 3/3/77.] Repealed by Order 1241, filed 9/23/77.
- 388-30-080 Continuing eligibility—Property transferred contrary to WAC 388-30-070 and 388-30-075. [Order 533, § 388-30-080, filed 3/31/71, effective 5/1/71; Order 459, § 388-30-080, filed 5/26/70, effective 7/1/70; Regulation 9.243, filed 12/21/64, effective 2/1/65; Regulation 9.243, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-085 Continuing eligibility—Financial need. [Order 533, § 388-30-085, filed 3/31/71, effective 5/1/71; Regulation 9.25, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-090 Continuing eligibility—Nonexempt resources and income known at time of application. [Order 1058, § 388-30-090, filed 10/1/75; Order 533, § 388-30-090, filed 3/31/71, effective 5/1/71; Regulation 9.251, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-095 Continuing eligibility—Effect of newly acquired income and property on need. [Order 1224, § 388-30-095, filed 7/19/77; Order 975, § 388-30-095, filed 10/11/74; Order 917, § 388-30-095, filed 3/14/74; Order 533, § 388-30-095, filed 3/31/71, effective 5/1/71; Regulation 9.252, filed 10/4/67; Regulation 9.252, filed 5/17/67, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-100 Continuing eligibility—Effect of newly acquired nonexempt income on need. [Order 1058, § 388-30-100, filed 10/1/75; Order 533, § 388-30-100, filed 3/31/71, effective 5/1/71; Regulation 9.253, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-105 Responsibility for eligibility maintenance. [Order 533, § 388-30-105, filed 3/31/71, effective 5/1/71; Order 448, § 388-30-105, filed 5/14/70, effective 6/15/70; Regulation 9.261, filed 7/27/67; Regulation 9.261, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-107 Responsibility for eligibility maintenance—Recipient. [Order 1016, § 388-30-107, filed 4/1/75; Order 842, § 388-30-107, filed 8/9/73; Order 790, § 388-30-107, filed 4/12/73; Order 533, § 388-30-107, filed 3/31/71, effective 5/1/71; Order 448, § 388-30-107, filed 5/14/70, effective 6/15/70.] Repealed by Order 1241, filed 9/23/77.
- 388-30-110 Responsibility for eligibility maintenance—Local office. [Order 533, § 388-30-110, filed 3/31/71, effective 5/1/71; Order 448, § 388-30-110, filed 5/14/70, effective 6/15/70.] Repealed by Order 1241, filed 9/23/77.
- 388-30-115 Responsibility for eligibility maintenance—Recipient's whereabouts unknown or failure to provide eligibility data. [Order 906, § 388-30-115, filed 2/14/74; Order 746, § 388-30-115, filed 12/7/72; Order 533, § 388-30-115, filed 3/31/71, effective 5/1/71; Order 448, § 388-30-115, filed 5/14/70, effective 6/15/70; Regulation 9.263, filed 3/11/65.] Repealed by Order 1241, filed 9/23/77.
- 388-30-120 Responsibility for eligibility maintenance—Reasonable doubt of eligibility—Warrant withheld. [Order 533, § 388-30-120, filed 3/31/71, effective 5/1/71; Order 448, § 388-30-120, filed 5/14/70, effective 6/15/70; Order 269, § 388-30-120, filed 12/5/67; Regulation 9.264, filed 3/11/65.] Repealed by Order 746, filed 12/7/72.
- 388-30-121 Responsibility for eligibility maintenance—Redirection of warrant. [Order 746, § 388-30-121, filed 12/7/72.] Repealed by Order 1241, filed 9/23/77.
- 388-30-125 Periodic review and redetermination of eligibility. [Order 917, § 388-30-125, filed 3/14/74; Order 841, § 388-30-125, filed 8/9/73; Order 746, § 388-30-125, filed 12/7/72; Order 533, § 388-30-125, filed 3/31/71, effective 5/1/71; Order 448, § 388-30-125, filed 5/14/70, effective 6/15/70; Regulation 9.27, filed 7/27/67; Regulation 9.27, filed 6/17/64, effective 8/1/64, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-130 Periodic review and redetermination of eligibility—Content of review. [Order 533, § 388-30-130, filed 3/31/71, effective 5/1/71; Order 448, § 388-30-130, filed 5/14/70, effective 6/15/70; Regulation 9.271, filed 6/17/64, effective 8/1/64; Regulation 9.271, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-135 Periodic review and redetermination of eligibility—Action on review. [Order 533, § 388-30-135, filed 3/31/71, effective 5/1/71; Order 448, § 388-30-135, filed 5/14/70, effective 6/15/70; Regulation 9.272, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-140 Periodic review and redetermination of eligibility—Changing and terminating grant. [Order 533, § 388-30-140, filed 3/31/71, effective 5/1/71; Regulation 9.28, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-150 Supplemental assistance—Requirements of recipient enrolled in community training level 4 or 5 course of remedial or vocational education. [Regulation 9.31, filed 8/29/66; Regulation 9.31, filed 12/31/65.] Repealed by Order 327, filed 11/27/68.
- 388-30-160 Supplemental assistance—Transportation for enrolled recipient. [Regulation 9.311, filed 12/31/65.] Repealed by Order 327, filed 11/27/68.
- 388-30-165 Supplemental assistance—Care of child of enrolled recipient. [Regulation 9.312, filed 12/31/65.] Repealed by Order 327, filed 11/27/68.
- 388-30-170 Supplemental assistance—Tuition, supplies and materials, uniforms. [Regulation 9.313, filed 12/31/65.] Repealed by Order 327, filed 11/27/68.
- 388-30-175 Supplemental assistance—Requirements of federal aid recipient enrolled in Title V project of Economic Opportunity Act. [Regulation 9.32, filed 7/27/67; Regulation 9.32, filed 8/29/66, 12/31/65.] Repealed by Order 327, filed 11/27/68.

**Chapter 388-35**

**NONCONTINUING GENERAL ASSISTANCE--ELIGIBILITY--PAYMENT--STANDARDS**

- 388-35-010 Conditions of eligibility. [Statutory Authority: RCW 74.08.090. 80-03-052 (Order 1490), § 388-35-010, filed 2/22/80; 79-11-090 (Order 1447), § 388-35-010, filed 10/25/79; 78-10-031 (Order 1337), § 388-35-010, filed 9/15/78.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-35-020 Determination of financial need. [Statutory Authority: RCW 74.08.090. 80-02-022 (Order 1471), § 388-35-020, filed 1/9/80; 78-10-031 (Order 1337), § 388-35-020, filed 9/15/78.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-35-030 Certification period. [Statutory Authority: RCW 74.08.090. 78-10-031 (Order 1337), § 388-35-030, filed 9/15/78.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-35-050 Assistance units—Eligible persons. [Statutory Authority: RCW 74.08.090. 78-10-031 (Order 1337), § 388-35-050, filed 9/15/78.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-35-060 Reapplication. [Statutory Authority: RCW 74.08.090. 79-10-085 (Order 1436), § 388-35-060, filed 9/21/79; 78-10-031 (Order 1337), § 388-35-

- filed 9/15/78.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-35-070 Noncontinuing general assistance—Requirements. [Statutory Authority: RCW 74.08.090. 80-15-002 (Order 1550), § 388-35-070, filed 10/2/80; 79-10-085 (Order 1436), § 388-35-070, filed 9/21/79; 78-10-031 (Order 1337), § 388-35-070, filed 9/15/78.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- Chapter 388-36**
- GENERAL ASSISTANCE—NONCONTINUING—ELIGIBILITY—PAYMENT**
- 388-36-010 Noncontinuing general assistance. [Order 536, § 388-36-010, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-010, filed 12/31/69; Order 294, § 388-36-010, filed 7/10/68; Regulation 12.00, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-015 Employable person—Defined. [Order 294, § 388-36-015, filed 7/10/68; Regulation 12.01, filed 12/31/65, effective 2/1/66; Regulation 12.01, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.
- 388-36-025 Noncontinuing general assistance—Eligibility conditions—Summary. [Order 760, § 388-36-025, filed 12/28/72; Order 536, § 388-36-025, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-025, filed 12/31/69; Order 368, § 388-36-025, filed 7/9/69; Order 294, § 388-36-025, filed 7/10/68; Order 250, § 388-36-025, filed 11/1/67; Regulation 12.10, filed 12/31/65, effective 2/1/66; Regulation 12.10, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-055 Full-time employment. [Order 250, § 388-36-055, filed 11/1/67; Regulation 12.12, filed 12/31/65, effective 2/1/66; Regulation 12.12, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.
- 388-36-060 Full-time employment—Effect on eligibility. [Order 250, § 388-36-060, filed 11/1/67; Regulation 12.121, filed 12/31/65, effective 2/1/66; Regulation 12.121, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.
- 388-36-070 Noncontinuing general assistance—Limitations on eligibility. [Order 760, § 388-36-070, filed 12/28/72; Order 633, § 388-36-070, filed 12/24/71; Order 622, § 388-36-070, filed 10/27/71; Order 536, § 388-36-070, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-070, filed 12/31/69; Order 250, § 388-36-070, filed 11/1/67; Regulation 12.13, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-080 Transfer of resource. [Order 294, § 388-36-080, filed 7/10/68; Regulation 12.14, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.
- 388-36-095 Noncontinuing general assistance—Requirements. [Order 653, § 388-36-095, filed 2/9/72; Order 536, § 388-36-095, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-095, filed 12/31/69; Order 294, § 388-36-095, filed 7/10/68; Order 250, § 388-36-095, filed 11/1/67; Regulation 12.151, filed 12/31/65, effective 2/1/66; Regulation 12.151, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-100 Noncontinuing general assistance—Computing income. [Order 536, § 388-36-100, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-100, filed 12/31/69; Regulation 12.152, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-105 Noncontinuing general assistance—Exempt and nonexempt resources and income. [Order 536, § 388-36-105, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-105, filed 12/31/69; Regulation 12.153, filed 12/31/65, effective 2/1/66; Regulation 12.153, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-110 Noncontinuing general assistance—Utilization of resources and income by noncontinuing general assistance recipient. [Order 536, § 388-36-110, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-110, filed 12/31/69; Regulation 12.154, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-125 Noncontinuing general assistance—Assistance unit defined. [Order 760, § 388-36-125, filed 12/28/72; Order 659, § 388-36-125, filed 2/23/72; Order 536, § 388-36-125, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-125, filed 12/31/69; Regulation 12.20, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-160 Other persons eligible for noncontinuing general assistance. [Order 294, § 388-36-160, filed 7/10/68; Regulation 12.30, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.
- 388-36-170 Applicant for federal aid or continuing general assistance. [Regulation 12.32, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.
- 388-36-180 Noncontinuing general assistance—Applicant without intent to remain in state. [Order 536, § 388-36-180, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-180, filed 12/31/69; Order 368, § 388-36-180, filed 7/9/69; Order 294, § 388-36-180, filed 7/10/68; Regulation 12.33, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-190 Other persons temporarily in need. [Order 294, § 388-36-190, filed 7/10/68; Regulation 12.34, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.
- 388-36-200 Immediate grant. [Regulation 12.35, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.
- 388-36-202 Noncontinuing general assistance—Application. [Order 536, § 388-36-202, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-202, filed 12/31/69.] Repealed by Order 841, filed 8/9/73.
- 388-36-205 Computation, authorization, reauthorization of grant. [Regulation 12.40, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.
- 388-36-210 Noncontinuing general assistance—Effective date of eligibility. [Order 536, § 388-36-210, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-210, filed 12/31/69; Regulation 12.41, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-220 Grant amount. [Regulation 12.42, filed 1/24/64.] Repealed by Order 536, filed 3/31/71, effective 5/1/71.
- 388-36-230 Noncontinuing general assistance—Grant period. [Order 536, § 388-36-230, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-230, filed 12/31/69; Regulation 12.43, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-240 Noncontinuing general assistance—Authorization and re-authorization of grant. [Order 536, § 388-36-240, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-240, filed 12/31/69; Regulation 12.44, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-245 Noncontinuing general assistance—Notification to recipient. [Order 536, § 388-36-245, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-245, filed 12/31/69; Regulation 12.441, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-255 Noncontinuing general assistance—Payment of grant. [Order 536, § 388-36-255, filed 3/31/71, effective 5/1/71; Order 450, § 388-36-255, filed 5/14/70, effective 6/15/70; Order 417, § 388-36-255, filed 12/31/69; Regulation 12.50, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-265 Noncontinuing general assistance—Vendor payment. [Order 536, § 388-36-265, filed 3/31/71, effective 5/1/71; Order 450, § 388-36-265, filed 5/14/70, effective 6/15/70; Order 417, § 388-36-265, filed 12/31/69; Regulation 12.51, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- Chapter 388-39**
- MEDICAL CARE**
- [Regulation 14.00 through 14.33, filed 1/24/64.] Repealed by Order 244, filed 10/20/67.

**Chapter 388-48**

**SAFEGUARDING INFORMATION**

- 388-48-010 Public assistance information confidential and privileged. [Order 541, § 388-48-010, filed 3/31/71, effective 5/1/71; Regulation 18.10, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-020 Information not confidential. [Statutory Authority: RCW 74.08.090. 78-08-047 (Order 1319), § 388-48-020, filed 7/19/78; Order 541, § 388-48-020, filed 3/31/71, effective 5/1/71; Regulation 18.11, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-025 Conditions and limitations on disclosing confidential information. [Reference section only] Repealed by Order 541, filed 3/31/71, effective 5/1/71.
- 388-48-030 Conditions and limitations on disclosing confidential information—Inquiry whether individual receives assistance. [Order 1096, § 388-48-030, filed 2/13/76; Order 993, § 388-48-030, filed 12/31/74; Order 541, § 388-48-030, filed 3/31/71, effective 5/1/71; Regulation 18.21, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-033 Conditions and limitations on disclosing confidential information—Request from parent for address or location of child. [Order 1096, § 388-48-033, filed 2/13/76; Order 1030, § 388-48-033, filed 6/12/75; Order 843, § 388-48-033, filed 8/9/73.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-037 Conditions and limitations on disclosing confidential information—Request from law enforcement agency or United States Immigration Service for address or location of recipient. [Order 993, § 388-48-037, filed 12/31/74; Order 843, § 388-48-037, filed 8/9/73.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-040 Conditions and limitations on disclosing confidential information—Information related to administration of assistance. [Order 541, § 388-48-040, filed 3/31/71, effective 5/1/71; Regulation 18.22, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-050 Conditions and limitations on disclosing confidential information—Release of information to United States armed services. [Order 541, § 388-48-050, filed 3/31/71, effective 5/1/71; Regulation 18.23, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-060 Conditions and limitations on disclosing confidential information—Release of information to disability insurance unit. [Regulation 18.24, filed 1/24/64.] Repealed by Order 541, filed 3/31/71, effective 5/1/71.
- 388-48-070 Conditions and limitations on disclosing confidential information—Release of information requested by applicant or recipient. [Order 541, § 388-48-070, filed 3/31/71, effective 5/1/71; Regulation 18.25, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-080 Conditions and limitations on disclosing confidential information—Release of information to applicant or recipient. [Order 541, § 388-48-080, filed 3/31/71, effective 5/1/71; Regulation 18.26, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.

- 388-48-100 Employees authorized to disclose information. [Order 541, § 388-48-100, filed 3/31/71, effective 5/1/71; Regulation 18.30, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-110 Distribution of rules and regulations. [Order 541, § 388-48-110, filed 3/31/71, effective 5/1/71; Order 271, § 388-48-110, filed 12/5/67; Regulation 18.40, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-120 Solicitation or use of confidential information. [Order 541, § 388-48-120, filed 3/31/71, effective 5/1/71; Regulation 18.50, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-130 Prohibition against release of confidential and privileged information in judicial proceedings. [Order 541, § 388-48-130, filed 3/31/71, effective 5/1/71; Order 271, § 388-48-130, filed 12/5/67; Regulation 18.60, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-140 General. [Regulation 18.70, filed 1/24/64.] Repealed by Order 541, filed 3/31/71, effective 5/1/71.

**Chapter 388-50**

**CASE RECORDS—CASE NUMBERING**

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

**Chapter 388-56**

**COMMUNITY WORK AND TRAINING**

- 388-56-010, 388-56-020, 388-56-030, 388-56-050, 388-56-060, 388-56-070, 388-56-080, 388-56-090, 388-56-150, 388-56-160, 388-56-170, 388-56-180, 388-56-190, 388-56-220, 388-56-230, 388-56-240, 388-56-260, 388-56-270, 388-56-280, 388-56-290, 388-56-300, 388-56-310, 388-56-315, 388-56-320, 388-56-340, 388-56-360, 388-56-370, 388-56-380, 388-56-390. [Regulation 22.00 through 22.63, filed 6/30/67.] Repealed by Order 326, filed 11/27/68.
- 388-56-040 [Order 279, § 388-56-040, filed 2/14/68; Regulation 22.02, filed 6/30/67.] Repealed by Order 326, filed 11/27/68.
- 388-56-330 [Regulation 22.58, filed 6/30/67.] Repealed by Order 277, filed 1/29/68 and Order 282, filed 2/14/68.

**Chapter 388-58**

**CUBAN REFUGEE ASSISTANCE**

- 388-58-010 Cuban refugee assistance. [Regulation 24.00, filed 12/21/64, effective 2/1/65; Regulation 24.00, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.
- 388-58-020 Scope of program—Federal auspices. [Regulation 24.11, filed 12/21/64, effective 2/1/65; Regulation 24.11, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.
- 388-58-025 Scope of program—Organization in Florida. [Regulation 24.12, filed 12/21/64, effective 2/1/65; Regulation 24.12, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.
- 388-58-030 Scope of program—Transition allowances. [Regulation 24.13, filed 12/21/64, effective 2/1/65; Regulation 24.13, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- 388-58-040 Cuban refugee assistance—Administration—Federal-state-local relationships. [Order 969, § 388-58-040, filed 9/13/74; Order 804, § 388-58-040, filed 5/31/73; Order 545, § 388-58-040, filed 3/31/71, effective 5/1/71; Regulation 24.21, filed 3/31/66; Regulation 24.21, filed 12/21/64, effective 2/1/65; Regulation 24.21, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.

- 388-58-050 Cuban refugee assistance—Refugee status defined. [Order 969, § 388-58-050, filed 9/13/74; Order 804, § 388-58-050, filed 5/31/73; Order 545, § 388-58-050, filed 3/31/71, effective 5/1/71; Regulation 24.22, filed 12/21/64, effective 2/1/65; Regulation 24.22, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- 388-58-060 Cuban refugee assistance—Eligibility conditions. [Order 969, § 388-58-060, filed 9/13/74; Order 804, § 388-58-060, filed 5/31/73; Order 545, § 388-58-060, filed 3/31/71, effective 5/1/71; Regulation 24.30, filed 12/21/64, effective 2/1/65; Regulation 24.30, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- 388-58-065 Cuban refugee assistance—Relatives joining resettled refugee. [Order 545, § 388-58-065, filed 3/31/71, effective 5/1/71; Regulation 24.31, filed 12/21/64, effective 2/1/65; Regulation 24.31, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- 388-58-070 Cuban refugee assistance—Financial need. [Order 545, § 388-58-070, filed 3/31/71, effective 5/1/71; Regulation 24.32, filed 12/21/64, effective 2/1/65; Regulation 24.32, filed 6/17/64, effective 8/1/64; Regulation 24.32, filed 1/24/64, effective 8/1/64.] Repealed by Order 1177, filed 12/23/76.
- 388-58-075 Cuban refugee assistance—Other eligibility considerations. [Order 545, § 388-58-075, filed 3/31/71, effective 5/1/71; Regulation 24.33, filed 12/21/64, effective 2/1/65; Regulations 24.33, 24.34, 24.35, 24.36, 24.37, and 24.38, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- 388-58-080 Records. [Regulation 24.34, filed 12/21/64, effective 2/1/65; Regulation 24.39, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.
- 388-58-090 Cuban refugee assistance—Payment of grant or foster care. [Order 545, § 388-58-090, filed 3/31/71, effective 5/1/71; Regulation 24.41, filed 12/21/64, effective 2/1/65; Regulation 24.41, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- 388-58-100 Payment—Medical care. [Regulation 24.42, filed 12/21/64, effective 2/1/65; Regulation 24.34, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.
- 388-58-120 Reporting. [Regulation 24.50, filed 12/21/64, effective 2/1/65; Regulation 24.50, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.
- 388-58-130 Cuban refugee assistance—Unaccompanied children. [Order 969, § 388-58-130, filed 9/13/74; Order 545, § 388-58-130, filed 3/31/71, effective 5/1/71; Regulation 24.60, filed 12/21/64, effective 2/1/65; Regulation 24.60, filed 6/17/64, effective 8/1/64, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- 388-63-025 Family home for retarded adults—Periodic visits—Consultation. [Order 752, § 388-63-025, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-030 Family home for retarded adults—Administrative hearing. [Order 752, § 388-63-030, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-035 Family home for retarded adults—Register. [Order 752, § 388-63-035, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-040 Family home for retarded adults—Reporting illness, injuries and death. [Order 752, § 388-63-040, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-045 Family home for retarded adults—First aid—Medical care. [Order 752, § 388-63-045, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-050 Family home for retarded adults—Characteristics of family. [Order 1159, § 388-63-050, filed 10/6/76; Order 752, § 388-63-050, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-055 Family home for retarded adults—Discipline. [Order 752, § 388-63-055, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-060 Family home for retarded adults—Physical aspects of home. [Order 752, § 388-63-060, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-065 Family home for retarded adults—Other requirements in providing care. [Order 1159, § 388-63-065, filed 10/6/76; Order 752, § 388-63-065, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-070 Family home for retarded adults—Discrimination prohibited. [Order 752, § 388-63-070, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-110 Adult family home—Placement—Care defined. [Order 1159, § 388-63-110, filed 10/6/76; Order 954, § 388-63-110, filed 7/26/74; Order 813, § 388-63-110, filed 6/28/73.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-120 Determination of need for care and placement. [Order 1159, § 388-63-120, filed 10/6/76; Order 954, § 388-63-120, filed 7/26/74; Order 813, § 388-63-120, filed 6/28/73.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-125 Exceptions to rules. [Order 1159, § 388-63-125, filed 10/6/76.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-130 Adult family home—Standards for approval for placement. [Order 954, § 388-63-130, filed 7/26/74; Order 813, § 388-63-130, filed 6/28/73.] Repealed by Order 1159, filed 10/6/76.
- 388-63-140 Adult family home—Standards for home and sponsor. [Order 813, § 388-63-140, filed 6/28/73.] Repealed by Order 1159, filed 10/6/76.
- 388-63-150 Adult family home—Services to be provided. [Order 813, § 388-63-150, filed 6/28/73.] Repealed by Order 1159, filed 10/6/76.
- 388-63-160 Adult family home—Application for approval for placement—Home study. [Order 954, § 388-63-160, filed 7/26/74; Order 813, § 388-63-160, filed 6/28/73.] Repealed by Order 1159, filed 10/6/76.

## Chapter 388-63

## FAMILY HOME FOR RETARDED ADULTS

- 388-63-005 Family home for adults—Definitions and exceptions. [Order 1159, § 388-63-005, filed 10/6/76; Order 752, § 388-63-005, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-010 Capacity of home—Limitations on ages and numbers. [Order 1159, § 388-63-010, filed 10/6/76; Order 752, § 388-63-010, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-015 Application for license. [Order 1159, § 388-63-015, filed 10/6/76; Order 752, § 388-63-015, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-020 Duration and provisions of license. [Order 1159, § 388-63-020, filed 10/6/76; Order 752, § 388-63-020, filed 12/14/72.] Repealed by 78-10-006 (Order



**Chapter 388-64**

**MINIMUM LICENSING REQUIREMENTS FOR GROUP HOMES**

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

388-64-100 [Order 420, § 388-64-100, filed 1/21/70; Order 347, § 388-64-100, filed 5/29/69.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-64-525 [Order 504, § 388-64-525, filed 12/30/70, effective 2/1/71.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

**Chapter 388-65**

**FOSTER FAMILY HOMES--FAMILY DAY CARE HOMES--LICENSING--MINIMUM REQUIREMENTS**

388-65-010 Foster family homes--Definitions and exceptions. [Order 753, § 388-65-010, filed 12/14/72; Order 257, § 388-65-010, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-020 Foster family homes--Capacity of home--Limitations on ages and numbers. [Order 753, § 388-65-020, filed 12/14/72; Order 421, § 388-65-020, filed 1/21/70; Order 257, § 388-65-020, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-030 Foster family homes--Application for license. [Order 753, § 388-65-030, filed 12/14/72; Order 257, § 388-65-030, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-035 Duration and provisions of license. [Order 257, § 388-65-035, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-038 Duration and provisions of license--Limitation on licensing. [Order 753, § 388-65-038, filed 12/14/72.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-040 Periodic visits--Consultation. [Order 257, § 388-65-040, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-045 Administrative hearings. [Order 257, § 388-65-045, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-050 Register. [Order 257, § 388-65-050, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-055 Daily attendance record. [Order 257, § 388-65-055, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-060 Reporting of injuries and death. [Order 257, § 388-65-060, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-065 First aid--Medical care. [Order 257, § 388-65-065, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-070 First aid--Characteristics of foster family. [Order 753, § 388-65-070, filed 12/14/72; Order 421, § 388-65-070, filed 1/21/70; Order 308, § 388-65-070, filed 9/20/68; Order 257, § 388-65-070, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-080 Discipline. [Order 257, § 388-65-080, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-090 Physical aspects of home. [Order 421, § 388-65-090, filed 1/21/70; Order 257, § 388-65-090, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-100 Physical aspects of home--Additional requirements for full-time foster care. [Order 753, § 388-65-100, filed 12/14/72; Order 257, § 388-65-100, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-200 Additional requirements for family day care homes for children. [Order 257, § 388-65-200, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-210 Additional requirements for family day care homes for children--Additional requirements for homes for expectant mothers. [Order 753, § 388-65-210, filed 12/14/72; Order 257, § 388-65-210, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-65-300 Additional requirements for the care of mentally retarded adults. [Order 257, § 388-65-300, filed 11/24/67.] Repealed by Order 753, filed 12/14/72.

388-65-310 Additional requirements for the care of mentally retarded adults--Discrimination prohibited. [Order 505, § 388-65-310, filed 12/30/70, effective 2/1/71.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

**Chapter 388-66**

**DAY CARE CENTERS--LICENSING--MINIMUM REQUIREMENTS**

388-66-005, 388-66-010, 388-66-015, 388-66-020, 388-66-025, 388-66-030, 388-66-035, 388-66-040, 388-66-045, 388-66-050, 388-66-055, 388-66-060, 388-66-065, 388-66-070, 388-66-095, 388-66-110, 388-66-120, 388-66-125, 388-66-135, 388-66-150, 388-66-155, 388-66-165, 388-66-170, 388-66-175, 388-66-180, 388-66-185, 388-66-190, 388-66-195, 388-66-200, 388-66-230, 388-66-245, 388-66-250. [Order 258, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-66-090, 388-66-115, 388-66-130, 388-66-160, 388-66-220, 388-66-225, 388-66-235, 388-66-240, 388-66-255, 388-66-300. [Order 422, filed 1/21/70; Order 258, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

388-66-310 [Order 506, § 388-66-310, filed 12/30/70, effective 2/1/71.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

**Chapter 388-67**

**MATERNITY HOMES--LICENSING--MINIMUM REQUIREMENTS**

388-67-005, 388-67-010, 388-67-020, 388-67-025, 388-67-030, 388-67-035, 388-67-040, 388-67-045, 388-67-050, 388-67-055, 388-67-060, 388-67-065, 388-67-070, 388-67-100, 388-67-105, 388-67-150, 388-67-155, 388-67-160, 388-67-165, 388-67-170, 388-67-175, 388-67-200, 388-67-205, 388-67-250, 388-67-255, 388-67-260, 388-67-265, 388-67-270, 388-67-275, 388-67-280, 388-67-300, 388-67-305, 388-67-310, 388-67-315, 388-67-325, and 388-67-335. [Order 259, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

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

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

**Chapter 388-68**

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

388-68-005, 388-68-010, 388-68-020, 388-68-025, 388-68-030, 388-68-035, 388-68-040, 388-68-045, 388-68-050, 388-68-055, 388-68-060, 388-68-065, 388-68-070, 388-68-100, 388-68-150, 388-68-155, 388-68-160, 388-68-165, 388-68-170, 388-68-175, 388-68-180, 388-68-200, 388-68-205, 388-68-250, 388-68-255, 388-68-260, 388-68-265, 388-68-270, 388-68-275, 388-68-280, and

**Title 388 WAC****Title 388 WAC: DSHS (Public Assistance)**

388-68-300. [Order 260, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

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

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

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

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

**Chapter 388-69****CHILD PLACING AGENCIES--LICENSING--MINIMUM REQUIREMENTS**

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

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

**Chapter 388-72****SERVICES FOR THE BLIND**

388-72-010 Services for the blind—Organization. [Manual VII, Regulation 1.00 and chart, filed 1/24/64, effective 3/1/64.] Repealed by Order 867, filed 10/26/73.

388-72-020 Advisory committee for the blind. [Manual VII, Regulation 1.11, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090. Later promulgation, see Title 67 WAC.

388-72-025 Physicians' eye advisory committee. [Manual VII, Regulation 1.12, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-030 Aid to blind. [Manual VII, Regulation 1.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-035 County office responsibility. [Manual VII, Regulation 1.30, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-040 Mail address of services for the blind. [Manual VII, Regulation 1.40, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-045 Abbreviations. [Manual VII, Regulation 1.50, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-050 Eligibility. [Statutory Authority: RCW 74.08.090. 80-02-051 (Order 1475), § 388-72-050, filed 1/16/80.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-060 Exempt resources. [Statutory Authority: RCW 74.08.090. 80-02-051 (Order 1475), § 388-72-060, filed 1/16/80.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-070 Eligibility determination. [Statutory Authority: RCW 74.08.090. 80-02-051 (Order 1475), § 388-72-070, filed 1/16/80.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-080 Residence—State of Washington. [Statutory Authority: RCW 74.08.090. 80-02-051 (Order 1475), § 388-72-080, filed 1/16/80.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-090 Application review. [Statutory Authority: RCW 74.08.090. 80-02-051 (Order 1475), § 388-72-090, filed 1/16/80.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-100 Allotment for blind student attending college or university—General. [Manual VII, Regulation 2.00, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-105 Allotment for blind student attending college or university—Application for allotment. [Manual VII, Regulation 2.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-110 Allotment for blind student attending college or university—Administrative relationship between state department of public assistance and superintendent of public instruction. [Manual VII, Regulation 2.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-115 Allotment for blind student attending college or university—Application from blind person interested in attending college or university. [Manual VII, Regulation 2.30, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-120 Allotment for blind student attending college or university—Responsibility of college or university. [Manual VII, Regulation 2.40, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-125 Allotment for blind student attending college or university—Use of allotment from state board of education. [Manual VII, Regulation 2.50, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-150 Home teaching services for adult blind—Purpose. [Manual VII, Regulation 3.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-155 Home teaching services for adult blind—Teaching plan. [Manual VII, Regulation 3.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-160 Home teaching services for adult blind—Personal adjustment services. [Manual VII, Regulation 3.30, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-165 Home teaching services for adult blind—Relationship with staff, other agencies and community. [Manual VII, Regulation 3.40, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-170 Home teaching services for adult blind—Case record. [Manual VII, Regulation 3.50, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-175 Supervision and consultation. [Manual VII, Regulation 3.60, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-180 Termination of service. [Manual VII, Regulation 3.70, filed 1/24/64, effective 3/1/64.] Repealed by

- 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-200 Prevention of blindness and restoration of vision—Legal basis—Objective. [Order 867, § 388-72-200, filed 10/26/73; Manual VII, Regulation 4.00, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-205 Prevention of blindness and restoration of vision—Physicians eligible to render services. [Order 867, § 388-72-205, filed 10/26/73; Manual VII, Regulation 4.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-207 Prevention of blindness and restoration of vision—Staff ophthalmologist. [Order 867, § 388-72-207, filed 10/26/73.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-210 Prevention of blindness and restoration of vision—Services provided. [Order 867, § 388-72-210, filed 10/26/73; Manual VII, Regulation 4.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-215 Prevention of blindness and restoration of vision—Services excluded. [Order 867, § 388-72-215, filed 10/26/73.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-220 Prevention of blindness and restoration of vision—Persons eligible. [Order 867, § 388-72-220, filed 10/26/73; Manual VII, Regulation 4.31, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-225 Prevention of blindness and restoration of vision—Resources. [Order 867, § 388-72-225, filed 10/26/73; Manual VII, Regulation 4.32, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-230 Prevention of blindness and restoration of vision—Requirements. [Order 867, § 388-72-230, filed 10/26/73; Manual VII, Regulation 4.33, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-235 Prevention of blindness and restoration of vision—Residence. [Order 867, § 388-72-235, filed 10/26/73; Manual VII, Regulation 4.34, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-240 Prevention of blindness and restoration of vision—Application. [Order 867, § 388-72-240, filed 10/26/73; Manual VII, Regulation 4.40, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-250 Prevention of blindness and restoration of vision—Authorization of services. [Manual VII, Regulation 4.51, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-255 Prevention of blindness and restoration of vision—Consultation services. [Manual VII, Regulation 4.52, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-260 Prevention of blindness and restoration of vision—Social summary. [Manual VII, Regulation 4.53, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-265 Prevention of blindness and restoration of vision—Physical examination. [Manual VII, Regulation 4.54, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-270 Prevention of blindness and restoration of vision—Glasses. [Manual VII, Regulation 4.56, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-275 Prevention of blindness and restoration of vision—Prostheses. [Manual VII, Regulation 4.57, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-280 Prevention of blindness and restoration of vision—Drugs. [Manual VII, Regulation 4.58, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-285 Prevention of blindness and restoration of vision—Reports. [Manual VII, Regulation 4.60, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-290 Prevention of blindness and restoration of vision—Participating ophthalmologists. [Manual VII, Regulation 4.70, filed 1/24/64, effective 3/1/64.] Repealed by Order 867, filed 10/26/73.
- 388-72-300 Rehabilitation center for the blind. [Manual VII, Regulation 5.00, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-305 Rehabilitation center for the blind—Application. [Manual VII, Regulation 5.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-310 Rehabilitation center for the blind—Eligibility. [Manual VII, Regulation 5.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-315 Rehabilitation center for the blind—Maintenance while attending the rehabilitation center. [Manual VII, Regulation 5.30, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-350 Services for blind children—State department of public assistance responsibilities. [Manual VII, Regulation 7.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-355 Services for blind children—State school for the blind. [Manual VII, Regulation 7.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-400 Talking book machines—General. [Manual VII, Regulation 8.00, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-405 Talking book machines—Distribution. [Manual VII, Regulation 8.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-410 Talking book machines—Application procedure. [Manual VII, Regulation 8.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-415 Talking book machines—Eligibility for talking book machines. [Manual VII, Regulation 8.30, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-425 Talking book machines—County office responsibility for talking book machine. [Manual VII, Regulation

8.40, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-435 Talking book machines—Issuance of machine. [Manual VII, Regulation 8.50, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-445 Talking book machines—Return of machine. [Manual VII, Regulation 8.60, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-500 Training center for the blind—General. [Manual VII, Regulation 9.00, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-505 Training center for the blind—Application. [Manual VII, Regulation 9.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-510 Training center for the blind—Eligibility. [Manual VII, Regulation 9.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-515 Training center for the blind—Maintenance while attending training center. [Manual VII, Regulation 9.30, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-520 Training center for the blind—Placement. [Manual VII, Regulation 9.40, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-550 Vending stands—General. [Manual VII, Regulation 10.00, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-555 Vending stands—Application. [Manual VII, Regulation 10.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-560 Vending stands—Eligibility. [Manual VII, Regulation 10.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-565 Vending stands—Selection. [Manual VII, Regulation 10.30, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-570 Vending stands—Training and placement. [Manual VII, Regulation 10.40, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-575 Vending stands—Maintenance during vending stand training. [Manual VII, Regulation 10.50, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-580 Vending stands—Equipment and stock. [Manual VII, Regulation 10.60, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-585 Vending stands—Supervision. [Manual VII, Regulation 10.70, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-590 Vending stands—Fair hearing. [Manual VII, Regulation 10.80, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-600 Vocational rehabilitation services for the blind—General. [Manual VII, Regulation 11.00, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-605 Vocational rehabilitation services for the blind—Eligibility for vocational rehabilitation services for the blind. [Manual VII, Regulation 11.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-610 Vocational rehabilitation services for the blind—Referral for vocational rehabilitation services for the blind. [Manual VII, Regulation 11.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-615 Vocational rehabilitation services for the blind—Services provided. [Manual VII, Regulation 11.30, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-620 Vocational rehabilitation services for the blind—Exchange of case information. [Manual VII, Regulation 11.40, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-625 Vocational rehabilitation services for the blind—County office responsibility. [Manual VII, Regulation 11.50, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-630 Vocational rehabilitation services for the blind—Costs incidental to vocational rehabilitation. [Manual VII, Regulation 11.60, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

388-72-635 Vocational rehabilitation services for the blind—Vending stands. [Manual VII, Regulation 11.70, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

Chapter 388-75

MINIMUM REQUIREMENTS FOR LICENSING CHILD CARE AGENCIES AND MATERNITY SERVICES

388-75-003 Definitions. [Order 936, § 388-75-003, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-006 Nonlicensed facilities unlawful. [Order 936, § 388-75-006, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-009 Action against agency. [Order 936, § 388-75-009, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-012 Exceptions to rules. [Order 936, § 388-75-012, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-015 Agencies to be licensed—Definitions—Categories. [Order 936, § 388-75-015, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-018 Exemptions—Facilities not subject to licensing. [Order 1010, § 388-75-018, filed 2/19/75; Order 985, § 388-75-018, filed 11/29/74; Order 936, § 388-75-018, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-021 Certification of exempt program or facility. [Order 936, § 388-75-021, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-024 Certification of drug treatment center. [Order 936, § 388-75-024, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-027 Application for license. [Order 936, § 388-75-027, filed 5/23/74.] Repealed by 78-10-006 (Order

	1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-084	Transportation. [Order 936, § 388-75-084, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-030	Licenses for homes under supervision of licensed agency. [Order 936, § 388-75-030, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-087	Care and administration of medications. [Order 936, § 388-75-087, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-031	Licensure of staff members. [Order 1146, § 388-75-031, filed 8/26/76.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-090	Personnel policies. [Order 936, § 388-75-090, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-033	Fire marshal's approval. [Order 936, § 388-75-033, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-093	Special requirements regarding American Indians. [Order 985, § 388-75-093, filed 11/29/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-036	Health approval. [Order 936, § 388-75-036, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-103	Child placing agency. [Order 936, § 388-75-103, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-039	Local ordinances—Effect of. [Order 936, § 388-75-039, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-106	Child placing agency—Governing or advisory board. [Order 936, § 388-75-106, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-042	Character references. [Order 936, § 388-75-042, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-109	Child placing agency—Out-of-state agencies. [Order 936, § 388-75-109, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-045	Duration and provisions of license. [Order 936, § 388-75-045, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-112	Child placing agency—Personnel. [Order 936, § 388-75-112, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-048	Renewal of license. [Order 936, § 388-75-048, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-115	Child placing agency—Office space. [Order 936, § 388-75-115, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-051	Provisional license. [Order 936, § 388-75-051, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-118	Child placing agency—Records. [Order 936, § 388-75-118, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-054	Denial, revocation, suspension of license. [Order 936, § 388-75-054, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-121	Child placing agency—Medical care. [Order 936, § 388-75-121, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-057	Administrative hearing. [Order 936, § 388-75-057, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-124	Child placing agency—Legal consultation. [Order 936, § 388-75-124, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-060	Operation following suspension or revocation of license. [Order 936, § 388-75-060, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-127	Child placing agency—Foster care placements. [Order 936, § 388-75-127, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-063	Periodic review of licensing requirements. [Order 936, § 388-75-063, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-130	Child placing agency—Adoptive placements. [Order 936, § 388-75-130, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-066	Review by advisory committee. [Order 936, § 388-75-066, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-153	Foster family home. [Order 936, § 388-75-153, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-069	Periodic visits and consultation. [Order 936, § 388-75-069, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-156	Foster family home—Capacity—Limitations on ages and numbers. [Order 936, § 388-75-156, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-072	Reporting of injury, death, epidemic, or child abuse. [Order 936, § 388-75-072, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-157	Foster family home—Limitation on licensing. [Order 1018, § 388-75-157, filed 4/23/75.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-075	Records and reports. [Order 936, § 388-75-075, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-159	Foster family home—Characteristics of family. [Order 936, § 388-75-159, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-078	Discrimination prohibited. [Order 985, § 388-75-078, filed 11/29/74; Order 936, § 388-75-078, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-162	Foster family home—Care of child and expectant mother. [Order 936, § 388-75-162, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-081	Agency conducted by religious organization. [Order 936, § 388-75-081, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-165	Foster family home—Register. [Order 936, § 388-75-165, filed 5/23/74.] Repealed by 78-10-006

Title 388 WAC

Title 388 WAC: DSHS (Public Assistance)

	(Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-265	Mini-day care center—Program and equipment. [Order 936, § 388-75-265, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-168	Foster family home—First aid—Health care. [Order 936, § 388-75-168, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-268	Mini-day care center—Nutrition. [Order 936, § 388-75-268, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-171	Foster family home—Responsibility of placing agency—Absence from home. [Order 936, § 388-75-171, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-271	Mini-day care center—Discipline. [Order 936, § 388-75-271, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-174	Foster family home—Physical aspects of home. [Order 936, § 388-75-174, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-274	Mini-day care center—Records. [Order 936, § 388-75-274, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-177	Foster family home—Fire safety. [Order 936, § 388-75-177, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-277	Mini-day care center—Health care. [Order 936, § 388-75-277, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-203	Family day care home. [Order 936, § 388-75-203, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-280	Mini-day care center—Physical facilities. [Order 936, § 388-75-280, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-206	Family day care home—Capacity—Limitations on ages and numbers. [Order 936, § 388-75-206, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-283	Mini-day care center—Fire safety. [Order 936, § 388-75-283, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-209	Family day care home—Characteristics of family. [Order 936, § 388-75-209, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-303	Day care center. [Order 936, § 388-75-303, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-212	Family day care home—Program and equipment. [Order 936, § 388-75-212, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-306	Day care center—Required personnel. [Order 936, § 388-75-306, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-215	Family day care home—Nutrition. [Order 936, § 388-75-215, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-309	Day care center—Staff training. [Order 936, § 388-75-309, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-218	Family day care home—Discipline. [Order 936, § 388-75-218, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-312	Day care center—Program. [Order 936, § 388-75-312, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-221	Family day care home—Records. [Order 936, § 388-75-221, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-315	Day care center—Maximum hours—Rest periods. [Order 936, § 388-75-315, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-224	Family day care home—Health care. [Order 936, § 388-75-224, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-318	Day care center—Discipline. [Order 936, § 388-75-318, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-227	Family day care home—Physical aspects of home. [Order 936, § 388-75-227, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-321	Day care center—Infant care. [Order 936, § 388-75-321, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-230	Family day care home—Fire safety. [Order 936, § 388-75-230, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-324	Day care center—Toddlers and preschool children. [Order 936, § 388-75-324, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-253	Mini-day care center. [Order 936, § 388-75-253, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-327	Day care center—School-age children. [Order 936, § 388-75-327, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-256	Mini-day care center—Capacity—Limitations on ages and numbers. [Order 936, § 388-75-256, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-330	Day care center—Handicapped children. [Order 936, § 388-75-330, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-259	Mini-day care center—Staffing. [Order 936, § 388-75-259, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-333	Day care center—Drop-in care. [Order 936, § 388-75-333, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
388-75-262	Mini-day care center—Qualifications of licensee and staff. [Order 936, § 388-75-262, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.	388-75-336	Day care center—Evening and nighttime care. [Order 936, § 388-75-336, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

- 388-75-339 Day care center—Furnishings and equipment. [Order 936, § 388-75-339, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-342 Day care center—Children's records. [Order 936, § 388-75-342, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-345 Day care center—Parent-center relationships. [Order 936, § 388-75-345, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-348 Day care center—Nutrition. [Order 936, § 388-75-348, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-351 Day care center—Tuberculosis tests for staff. [Order 936, § 388-75-351, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-354 Day care center—Medical policies. [Order 936, § 388-75-354, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-357 Day care center—First aid. [Order 936, § 388-75-357, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-360 Day care center—Health history—Physical exam. [Order 936, § 388-75-360, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-363 Day care center—Immunizations. [Order 936, § 388-75-363, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-366 Day care center—Ill children—Illness and accident report. [Order 936, § 388-75-366, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-369 Day care center—Site and communications—Outdoor play area. [Order 936, § 388-75-369, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-372 Day care center—Safety and maintenance. [Order 936, § 388-75-372, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-375 Day care center—Required rooms, area, equipment. [Order 936, § 388-75-375, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-378 Day care center—Sewage and liquid wastes. [Order 936, § 388-75-378, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-381 Day care center—Pest control. [Order 936, § 388-75-381, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-384 Day care center—Laundry. [Order 936, § 388-75-384, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-387 Day care center—Water supply and plumbing. [Order 936, § 388-75-387, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-390 Day care center—Floors, walls, ceilings, windows. [Order 936, § 388-75-390, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-393 Day care center—Ventilation—Room temperature—Lighting. [Order 936, § 388-75-393, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-396 Day care center—Fire safety. [Order 936, § 388-75-396, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-403 Day treatment center. [Order 936, § 388-75-403, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-406 Day treatment center—Function of day treatment program. [Order 936, § 388-75-406, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-409 Day treatment center—Governor or advisory board. [Order 936, § 388-75-409, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-412 Day treatment center—Personnel. [Order 936, § 388-75-412, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-415 Day treatment center—Ratio of counselor and teaching staff to children. [Order 936, § 388-75-415, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-418 Day treatment center—Personnel—General qualifications. [Order 936, § 388-75-418, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-421 Day treatment center—Tuberculosis tests for staff. [Order 936, § 388-75-421, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-424 Day treatment center—Program. [Order 936, § 388-75-424, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-428 Day treatment center—Social study—Case plan. [Order 936, § 388-75-428, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-430 Day treatment center—Discipline. [Order 936, § 388-75-430, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-433 Day treatment center—Education. [Order 936, § 388-75-433, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-436 Day treatment center—Health. [Order 936, § 388-75-436, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-439 Day treatment center—Nutrition. [Order 936, § 388-75-439, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-442 Day treatment center—Site and communications—Outdoor play area. [Order 936, § 388-75-442, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-445 Day treatment center—Safety and maintenance. [Order 936, § 388-75-445, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-448 Day treatment center—Required rooms, area, equipment. [Order 936, § 388-75-448, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-451 Day treatment center—Sewage and liquid wastes. [Order 936, § 388-75-451, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-454 Day treatment center—Pest control. [Order 936, § 388-75-454, filed 5/23/74.] Repealed by 78-10-006

**Title 388 WAC**

**Title 388 WAC: DSHS (Public Assistance)**

(Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-457 Day treatment center—Laundry. [Order 936, § 388-75-457, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-460 Day treatment center—Water supply and plumbing. [Order 936, § 388-75-460, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-463 Day treatment center—Floors, walls, ceilings, windows. [Order 936, § 388-75-463, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-466 Day treatment center—Ventilation—Room temperature—Lighting. [Order 936, § 388-75-466, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-469 Day treatment center—Fire safety. [Order 936, § 388-75-469, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-503 Group home. [Order 936, § 388-75-503, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-506 Group home—Description. [Order 936, § 388-75-506, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-509 Group home—Function. [Order 936, § 388-75-509, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-512 Group home—Governing or advisory board. [Order 936, § 388-75-512, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-515 Group home—Personnel—General qualifications. [Order 936, § 388-75-515, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-518 Group home—Tuberculosis tests for staff. [Order 936, § 388-75-518, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-521 Group home—Required positions. [Order 936, § 388-75-521, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-524 Group home—Social service. [Order 936, § 388-75-524, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-527 Group home—Education. [Order 936, § 388-75-527, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-530 Group home—Economic experiences. [Order 936, § 388-75-530, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-533 Group home—Spiritual training. [Order 936, § 388-75-533, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-536 Group home—Community contacts. [Order 936, § 388-75-536, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-539 Group home—Discipline. [Order 936, § 388-75-539, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-542 Group home—Clothing. [Order 936, § 388-75-542, filed 5/23/74.] Repealed by 78-10-006 (Order

1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-545 Group home—Required rooms, areas and equipment. [Order 936, § 388-75-545, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-548 Group home—Site and communication. [Order 936, § 388-75-548, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-551 Group home—Safety and maintenance. [Order 936, § 388-75-551, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-554 Group home—Sewage and liquid wastes. [Order 936, § 388-75-554, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-557 Group home—Pest control. [Order 936, § 388-75-557, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-560 Group home—Water supply and plumbing. [Order 936, § 388-75-560, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-563 Group home—Floors, walls, and ceilings. [Order 936, § 388-75-563, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-566 Group home—Ventilation. [Order 936, § 388-75-566, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-569 Group home—Room temperature. [Order 936, § 388-75-569, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-572 Group home—Lighting. [Order 936, § 388-75-572, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-575 Group home—Food and food services. [Order 936, § 388-75-575, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-578 Group home—Health program—Medical service for children. [Order 936, § 388-75-578, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-581 Group home—Health records for children. [Order 936, § 388-75-581, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-584 Group home—Fire safety. [Order 936, § 388-75-584, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-603 Child care institution. [Order 936, § 388-75-603, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-606 Child care institution—Governing or advisory board. [Order 936, § 388-75-606, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-609 Child care institution—Personnel—General qualifications. [Order 936, § 388-75-609, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-612 Child care institution—Tuberculosis tests for staff. [Order 936, § 388-75-612, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

388-75-615 Child care institution—Personnel—Required positions. [Order 936, § 388-75-615, filed 5/23/74.]



- Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-618 Child care institution—Staff training. [Order 936, § 388-75-618, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-621 Child care institution—Discipline. [Order 936, § 388-75-621, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-624 Child care institution—Social service. [Order 936, § 388-75-624, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-627 Child care institution—Education. [Order 936, § 388-75-627, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-630 Child care institution—Economic experiences. [Order 936, § 388-75-630, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-633 Child care institution—Clothing. [Order 936, § 388-75-633, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-636 Child care institution—Community contacts. [Order 936, § 388-75-636, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-639 Child care institution—Spiritual training. [Order 936, § 388-75-639, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-642 Child care institution—Food and food services. [Order 936, § 388-75-642, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-645 Child care institution—Health service. [Order 936, § 388-75-645, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-648 Child care institution—Health records. [Order 936, § 388-75-648, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-651 Child care institution—Nursing service. [Order 936, § 388-75-651, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-654 Child care institution—Site and communication. [Order 936, § 388-75-654, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-657 Child care institution—Safety and maintenance. [Order 936, § 388-75-657, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-660 Child care institution—Required rooms, areas and equipment. [Order 936, § 388-75-660, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-663 Child care institution—Sewage and liquid wastes. [Order 936, § 388-75-663, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-666 Child care institution—Pest control. [Order 936, § 388-75-666, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-669 Water supply and plumbing. [Order 936, § 388-75-669, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-672 Water supply and plumbing—Floors, walls, and ceilings. [Order 936, § 388-75-672, filed 5/23/74.]
- Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-675 Water supply and plumbing—Ventilation. [Order 936, § 388-75-675, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-678 Water supply and plumbing—Room temperature and lighting. [Order 936, § 388-75-678, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-681 Water supply and plumbing—Fire safety. [Order 936, § 388-75-681, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-703 Maternity services. [Order 936, § 388-75-703, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-706 Maternity services—Definition. [Order 936, § 388-75-706, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-709 Maternity services—Eligibility for service—Required services. [Order 936, § 388-75-709, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-712 Governing or advisory board. [Order 936, § 388-75-712, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-715 Governing or advisory board—Personnel—General qualifications. [Order 936, § 388-75-715, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-718 Governing or advisory board—Staff training. [Order 936, § 388-75-718, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-721 Governing or advisory board—Tuberculosis tests for staff. [Order 936, § 388-75-721, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-724 Governing or advisory board—Required personnel. [Order 936, § 388-75-724, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-727 Governing or advisory board—Guidance and counseling. [Order 936, § 388-75-727, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-730 Governing or advisory board—Health education. [Order 936, § 388-75-730, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-733 Governing or advisory board—Family life education. [Order 936, § 388-75-733, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-736 Governing or advisory board—Religious activities. [Order 936, § 388-75-736, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-739 Governing or advisory board—Work assignments. [Order 936, § 388-75-739, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-742 Governing or advisory board—Leisure time activities. [Order 936, § 388-75-742, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-745 Governing or advisory board—Academic and vocational instruction. [Order 936, § 388-75-745, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-748 Governing or advisory board—Child care. [Order 936, § 388-75-748, filed 5/23/74.] Repealed by 78-

- 10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-751 Governing or advisory board—Economic experiences. [Order 936, § 388-75-751, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-754 Governing or advisory board—Medical service. [Order 936, § 388-75-754, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-757 Governing or advisory board—Records—Recordkeeping. [Order 936, § 388-75-757, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-760 Governing or advisory board—Medical records. [Order 936, § 388-75-760, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-763 Governing or advisory board—Site and communication. [Order 936, § 388-75-763, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-766 Governing or advisory board—Safety and maintenance. [Order 936, § 388-75-766, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-769 Governing or advisory board—Water supply—Plumbing. [Order 936, § 388-75-769, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-772 Governing or advisory board—Floors, walls and ceilings. [Order 936, § 388-75-772, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-775 Governing or advisory board—Ventilation—Room temperature. [Order 936, § 388-75-775, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-778 Governing or advisory board—Lighting. [Order 936, § 388-75-778, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-781 Governing or advisory board—Sewage and liquid wastes. [Order 936, § 388-75-781, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-784 Governing or advisory board—Pest control. [Order 936, § 388-75-784, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-787 Governing or advisory board—Required rooms, areas, equipment. [Order 936, § 388-75-787, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-790 Governing or advisory board—Food and food service. [Order 936, § 388-75-790, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-793 Governing or advisory board—Fire safety. [Order 936, § 388-75-793, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- Chapter 388-89**
- MEDICAL CARE—AGED PERSON IN MENTAL INSTITUTION**
- 388-89-005 Definitions. [Order 938, § 388-89-005, filed 5/23/74; Order 331, § 388-89-005, filed 1/8/69; Order 264 (part), § 388-89-005, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.
- 388-89-010 Initial eligibility. [Order 938, § 388-89-010, filed 5/23/74; Order 435, § 388-89-010, filed 3/31/70; Order 331, § 388-89-010, filed 1/8/69; Order 264 (part), § 388-89-010, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.
- 388-89-015 Applicant not receiving grant prior to admission. [Order 331, § 388-89-015, filed 1/8/69; Order 264 (part), § 388-89-015, filed 11/24/67.] Repealed by Order 952, filed 7/16/74.
- 388-89-020 Person receiving grant prior to admission. [Order 331, § 388-89-020, filed 1/8/69; Order 264 (part), § 388-89-020, filed 11/24/67.] Repealed by Order 952, filed 7/16/74.
- 388-89-025 Application process. [Order 938, § 388-89-025, filed 5/23/74; Order 331, § 388-89-025, filed 1/8/69; Order 264 (part), § 388-89-025, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.
- 388-89-030 Certification of eligibility. [Order 938, § 388-89-030, filed 5/23/74; Order 331, § 388-89-030, filed 1/8/69; Order 264 (part), § 388-89-030, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.
- 388-89-035 Certification of eligibility—Effective date of authorization. [Order 938, § 388-89-035, filed 5/23/74; Order 331, § 388-89-035, filed 1/8/69; Order 264 (part), § 388-89-035, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.
- 388-89-040 Certification of eligibility—Duration of certification. [Order 938, § 388-89-040, filed 5/23/74; Order 331, § 388-89-040, filed 1/8/69; Order 264 (part), § 388-89-040, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.
- 388-89-045 Medical consultant approval for hospitalization or medical care—When required. [Order 938, § 388-89-045, filed 5/23/74; Order 331, § 388-89-045, filed 1/8/69; Order 264 (part), § 388-89-045, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.
- 388-89-050 Time-limited visit. [Order 938, § 388-89-050, filed 5/23/74; Order 331, § 388-89-050, filed 1/8/69; Order 264 (part), § 388-89-050, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.
- 388-89-055 Department responsibilities for patient/recipient entering psychiatric facility. [Order 938, § 388-89-055, filed 5/23/74; Order 331, § 388-89-055, filed 1/8/69; Order 264 (part), § 388-89-055, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.
- 388-89-060 Services to patient/recipient in psychiatric facility. [Order 938, § 388-89-060, filed 5/23/74; Order 331, § 388-89-060, filed 1/8/69; Order 264 (part), § 388-89-060, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.
- 388-89-065 Coordination of services for patient/recipient. [Order 938, § 388-89-065, filed 5/23/74; Order 331, § 388-89-065, filed 1/8/69; Order 264 (part), § 388-89-065, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.
- 388-89-070 Department responsibilities—Patient/recipient scheduled for release. [Order 938, § 388-89-070, filed 5/23/74; Order 331, § 388-89-070, filed 1/8/69; Order 264 (part), § 388-89-070, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.
- 388-89-075 Local office responsibility for social services—Recipient accepted for sixty caseload. [Order 938, § 388-89-075, filed 5/23/74; Order 331, § 388-89-075, filed 1/8/69; Order 264 (part), § 388-89-075, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.
- 388-89-080 Payment for care. [Order 938, § 388-89-080, filed 5/23/74; Order 331, § 388-89-080, filed 1/8/69; Order 264 (part), § 388-89-080, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.
- 388-89-085 Caseload administration. [Order 264 (part), § 388-89-085, filed 11/24/67.] Repealed by Order 331, filed 1/8/69.

## Chapter 388-94

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

- 388-94-005 Definitions. [Order 940, § 388-94-005, filed 6/10/74.] Repealed by Order 977, filed 10/28/74 before publication in the WAC.
- 388-94-010 Description of program. [Order 940, § 388-94-010, filed 6/10/74.] Repealed by Order 977, filed 10/28/74 before publication in the WAC.
- 388-94-015 Persons obligated to pay premium. [Order 940, § 388-94-015, filed 6/10/74.] Repealed by Order 977, filed 10/28/74 before publication in the WAC.
- 388-94-020 Cost-sharing premium—Standard for computing. [Order 940, § 388-94-020, filed 6/10/74.] Repealed by Order 977, filed 10/28/74 before publication in the WAC.
- 388-94-025 Cost-sharing premium—Payment—Notice of amount due. [Order 940, § 388-94-025, filed 6/10/74.] Repealed by Order 977, filed 10/28/74 before publication in the WAC.
- 388-94-030 Local office responsibility. [Order 940, § 388-94-030, filed 6/10/74.] Repealed by Order 977, filed 10/28/74 before publication in the WAC.
- 388-94-035 Penalty for nonpayment of premium. [Order 940, § 388-94-035, filed 6/10/74.] Repealed by Order 977, filed 10/28/74 before publication in the WAC.

## Chapter 388-104

## PERSONNEL

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

## Chapter 388-07 WAC

## ABBREVIATIONS

## WAC

388-07-005 Abbreviations.

## WAC 388-07-005 Abbreviations.

AAC	Actual acquisition cost	CSO	Community services office
AB	Aid to the blind	CWS	Child welfare services
ADL	Activities of daily living	DA	Disability assistance
AFDC	Aid to families with dependent children	DAC	Disaster assistance center
AFDC-E	Aid to families with dependent children—employable	DD	Developmental disabilities
AFDC-FC	Aid to families with dependent children—foster care	DES	Department of employment security
AFDC-R	Aid to families with dependent children—regular	DNS	Director of nursing services
ARENA	Adoption resource exchange of North America	DSHS	Department of social and health services
ATP	Authorization to participate	ECF	Extended care facility
BNHA	Bureau of nursing home affairs	EIC	Earned income tax credit
CAT	Computerized axial tomographic	ENT	Ear, nose and throat
CCF	Congregate care facility	EPSDT	Early and periodic screening, diagnosis and treatment
CETA	Comprehensive Employment and Training Act	ESSO	Economic and social services office (now CSO)
CFR	Code of federal regulations	E&T	Employment and training
Ch	Chapter	FAMCO	Federal aid medical care only
CO	County office (now CSO)	FCO	Federal coordinating officer
CPR	Cardio-pulmonary resuscitation	FDAA	Federal disaster assistance administration
CR	Superior court civil rules	FEMA	Federal emergency management agency
		FFA	Future farmers of America
		FHA	Farmers home administration
		FICA	Federal Insurance Contributions Act
		FNS	Food and nutrition service
		GA	General assistance
		GAN	General assistance—noncontinuing
		GAU	General assistance—continuing
		GCO	Grant coordinating officer
		HEW	United States Department of Health, Education and Welfare (now HHS)
		HHS	United States Department of Health and Human Services
		HMO	Health maintenance organization
		HUD	United States Department of Housing and Urban Development
		ICF	Intermediate care facility
		ICF/MR	Intermediate care facility/mentally retarded (see IMR)
		ICPC	Interstate compact on the placement of children
		ID	Identification
		IFG	Individual and family grant program
		IMR	Institution for the mentally retarded
		IMU	Income maintenance unit
		INS	Immigration and naturalization service
		IPPB	Intermittent positive pressure breathing
		IRAP	Indochinese refugee assistance program
		JCAH	Joint committee on accreditation of hospitals
		LO	Local office (now CSO)
		MA	Medical assistance
		MAC	Maximum allowable cost
		MCFO	Medical care field office
		MDTA	Manpower Development and Training Act
		MO	Medical only
		MS	Medical care services
		OAA	Old age assistance
		OEO	Office for equal opportunity
		OJT	On-the-job training
		ONHA	Office of nursing home affairs (now BNHA)
		OTC	Over-the-counter

PA	Public assistance
PAS	Professional activity study
PL	Public Law
PSE	Public service employment
PSRO	Professional standards review organization
RCW	Revised Code of Washington
RR	Railroad retirement
RSDI	Retirement survivors and disability insurance
RSI	Retirement and survivor's insurance
RV	Recreational vehicle
SBA	Small business administration
SCO	State coordinating officer
SDPA	State department of public assistance
SES	State employment service
SF	State form
SMI	See SMIAFS
SMIAFS	State median income adjusted for family size
SNF	Skilled nursing facility
SO	State office of department of social and health services
SSA	Social security administration
SSI	Supplemental security income
SSP	State supplementary payment
TB	Tuberculosis
UC	Unemployment compensation
US	United States
USC	United States Code
USDHEW	United States Department of Health, Education, and Welfare (now United States Department of Health and Human Services)
VA	Veterans administration
VISTA	Volunteers in service to America
VOLAG	Voluntary agency
WA	Washington
WAC	Washington Administrative Code
WARE	Washington adoption resource exchange
WIC	Women, infants and children
WIN	Work incentive program
WSES	Washington state employment services

[Statutory Authority: RCW 74.08.090. 81-01-013 (Order 1572), § 388-07-005, filed 12/8/80; Order 1044, § 388-07-005, filed 8/14/75; Order 615, § 388-07-005, filed 10/7/71; Order 523, § 388-07-005, filed 3/31/71, effective 5/1/71.]

### Chapter 388-08 WAC

#### PRACTICE AND PROCEDURE—FAIR HEARING

WAC	
388-08-00201	Scope of chapter 388-08 WAC.
388-08-00401	Authority to adjudicate.
388-08-006	Administrative hearing—Form of request.
388-08-00601	Administrative hearing—Group hearing.
388-08-010	Administrative hearing—Who may appear as a representative.
388-08-405	Withdrawal—Dismissal—Settlement.
388-08-406	Decision—rendering procedure—Proposal for decision.
388-08-409	Petition for review by review judge.
388-08-413	Procedure on review by review judge.
388-08-416	Selected final decisions as precedent.

388-08-435	Separate hearing regarding disclosure of investigative and intelligence files.
388-08-540	Petitions for rule-making amendment or repeal—Who may petition.
388-08-550	Updating mailing lists.
388-08-560	Delegation of authority by secretary.
388-08-580	Declaratory rulings.
388-08-590	Forms.

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

388-08-001	Complaint. [Regulation 23.10, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
388-08-00101	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.
388-08-003	Prerequisites. [Regulation 23.21, filed 10/13/66, effective 11/13/66; Regulation 23.21, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
388-08-004	County office organization for fair hearing. [Regulation 23.22, filed 10/13/66, effective 11/13/66; Regulation 23.30, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
388-08-005	County office responsibility. [Order 265, § 388-08-005, filed 12/5/67; Regulation 23.23, filed 10/13/66, effective 11/13/66; Regulation 23.51, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
388-08-007	Fair hearing—Access to records. [Order 768, § 388-08-007, filed 1/10/73; Order 524, § 388-08-007, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-007, filed 4/1/68; Regulation 23.33, filed 6/16/67; Regulation 23.33, filed 10/13/66, effective 11/13/66; Regulation 23.52, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
388-08-015	Attendance at hearing—Procedure. [Regulation 23.39, filed 10/13/66, effective 11/13/66.] Repealed by Order 286, filed 4/1/68.
388-08-050	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.
- 388-08-410 Form and content of decision. [Order 768, § 388-08-410, filed 1/10/73; Order 524, § 388-08-410, filed 3/31/71, effective 5/1/71; Order 514, § 388-08-410, filed 1/20/71; Order 374, § 388-08-410, filed 8/7/69; Order 317, § 388-08-410, filed 11/27/68; Order 284, § 388-08-410, filed 4/1/68; Regulation 23.51, filed 10/13/66, effective 11/13/66; Regulation 23.70, filed 1/24/64.] Repealed by 79-09-054 (Order 1426), filed 8/24/79. Statutory Authority: RCW 34.04.020.
- 388-08-411 Decision by state department of public assistance director. [Regulation 23.50, filed 6/16/67; Regulation 23.50, filed 10/13/66, effective 11/13/66; Regulation 23.70, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
- 388-08-412 Procedure following decision. [Order 265, § 388-08-412, filed 12/5/67; Regulation 23.60, filed 10/13/66, effective 11/13/66; Regulation 23.80, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
- 388-08-414 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.
- 388-08-455 Rules of evidence. [Regulation 23.41, filed 10/13/66, effective 11/13/66; Regulation 23.64, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
- 388-08-470 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 Court appeal. [Order 265, § 388-08-600, filed 12/5/67; Regulation 23.70, filed 10/13/66, effective 11/13/66; Regulation 23.90, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
- 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.
- 388-08-610 Publication of fair hearing decisions. [Order 524, § 388-08-610, filed 3/31/71, effective 5/1/71; Order 317, § 388-08-610, filed 11/27/68.] Repealed by 80-06-089 (Order 1506), filed 5/28/80. Statutory Authority: RCW 34.04.020.

**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 388-08-405 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 388-08-409 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 388-08-416 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 388-08-435 Separate hearing regarding disclosure of investigative and intelligence files.** (1) In the event a fair hearing regarding public assistance or food stamp program is being conducted under chapter 388-08 WAC, the appellant shall be advised of his or her right to seek inspection of the data. If the appellant seeks disclosure of any data maintained by the office of special investigation which is subject to the exemption contained in WAC 388-320-220(3), the following process shall be followed to determine whether, on a case-by-case basis, such disclosure shall be ordered:

(a) The appellant or his or her representative shall file a written request with the office of hearings or the hearings examiner, if one has been appointed, no later than fifteen days prior to the hearing.

(b) The request must identify the type of information sought.

(c) The request must state the reasons why the requester believes disclosure of the information is necessary.

(d) The request shall identify the local community service office or the office of special investigation field office where the appellant would review the documents.

(e) The office of hearings or examiner shall forward a copy of the request to the office of special investigation at the main office of special investigation in Olympia.

(f) Upon a showing of good cause by the appellant, the fifteen-day notice period may be shortened by the hearings examiner.

(2) Within ten days of receipt of a properly filed request, the office of special investigation shall determine

whether any of the documents sought are within the exemptions for disclosure listed in WAC 388-320-220 (3)(a). Such documents, if any, shall be sealed in an envelope clearly designated as confidential documents of the office of special investigation. These documents shall then be placed in the office of special investigation file. The office of special investigation shall then notify the appellant or representative in writing of the office of special investigation's action and his or her right to a disclosure hearing. If any information has been placed in a sealed envelope and excluded from disclosure, the notice shall state the specific exemption or exemptions of WAC 388-320-220(3) relied upon for this action. The notice shall provide the appellant a ten-day opportunity to inspect the office of special investigation file by the person or his or her representative who is the subject of the fair hearing at the appropriate community service office or office of special investigation field office as designated by the appellant. In no event shall the investigative file leave the physical control of the designated office of special investigation records custodian: *Provided*, That appellant may copy all documents not sealed in an envelope as confidential material as provided in WAC 388-320-140.

(3) If no amended request for disclosure pursuant to WAC 388-08-430(4) is filed properly, the issue of disclosure will be regarded as moot.

(4) If the appellant wants further disclosure, the appellant shall file an amended request for disclosure with the hearings examiner. The examiner shall schedule a separate, *in camera* hearing to be held for the purpose of determining whether and to what extent disclosure of information exempted in WAC 388-320-220(3) should be allowed.

(a) The department shall have the burden of proving, by a preponderance of the credible evidence, the necessity exists for protecting confidential information which clearly outweighs the interests of disclosure.

(b) Either party may offer witnesses to testify on the issue of disclosure. In the event the appellant calls witnesses from the state, investigative, law enforcement, or penology agencies as adverse witnesses, the appellant may ask leading questions.

(c) Attendance shall be limited to the parties, the parties' representatives, the hearings examiner, and any witnesses to be called: *Provided*, That upon the request of either party, or upon the examiner's own motion, the hearings examiner may exclude from the hearing witnesses not testifying.

(d) In determining whether any information should be disclosed to the appellant, the hearings examiner shall review the information, but shall not disclose the information to the appellant.

(e) The hearings examiner shall enter an initial order pursuant to WAC 388-08-408 containing written findings of fact and conclusions of law:

(i) If the information sought is pertinent to any ongoing criminal investigation, disclosure shall only be ordered by a superior court of this state.

(ii) The hearings examiner shall order nondisclosure of specific information consistent with the requirements

of WAC 388-320-220 after making findings of fact showing:

(A) The information sought to be disclosed is inadmissible and immaterial to establishing a defense; and

(B) Specific investigative or intelligence information, which cannot be deleted from any specific records sought, is clearly necessary to protect any vital governmental function, ongoing criminal investigation, or individual's right of privacy; and

(C) After weighing the public interest in protecting the flow of information against the individual's right to prepare his or her defense, the evidence demonstrates it is necessary that particular intelligence or investigative information not be disclosed.

(iii) An order for disclosure shall state the times and methods for inspection of the documents. In no event shall such decision compel the release of original documents but, rather, where release is ordered, copies shall be provided. Copying documents is governed by WAC 388-320-140.

(f) Each party has the right to file a petition for review, pursuant to WAC 388-08-409, for review of the initial order. There shall be no disclosure pursuant to an initial decision until all review proceedings have been exhausted.

[Statutory Authority: RCW 34.04.020. 83-03-021 (Order 1938), § 388-08-435, filed 1/13/83.]

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

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

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

(4) Within thirty days after the submission of a petition, the department shall formally consider the petition and shall within thirty days thereafter either deny the petition in writing stating the reasons for the denial or initiate rule-making proceedings in accordance with chapter 34.04 RCW.

[Order 768, § 388-08-540, filed 1/10/73; Order 524, § 388-08-540, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-540, filed 4/1/68.]

**WAC 388-08-550 Updating mailing lists.** (1) Periodically, the department may cause the following notice, or a notice substantially similar, to be mailed: "In order to maintain as current a mailing list as possible, and to

eliminate mailing notices to those who no longer have need for such notices, the department will discontinue use of its old mailing lists, effective (date to be specified). If you wish to continue receiving copies of notices of intention to adopt, amend or repeal rules after that date, please fill out the attached form and return it to the department at the address indicated on the form. If you do not return the form indicating your desire to continue to receive notices to adopt, amend or repeal rules, your name or the names of your organization will be removed from the mailing lists."

(2) The notice regarding updating of mailing lists is to be mailed by first-class mail.

(3) The form to be filled out by those persons or organizations wishing to continue to receive department notices to adopt, amend or repeal rules shall specify interest areas covered by these notices, thereby enabling those on mailing lists to limit correspondence received.

[Statutory Authority: RCW 34.04.020. 80-13-057 (Order 1544), § 388-08-550, filed 9/17/80.]

**WAC 388-08-560 Delegation of authority by secretary.** Pursuant to RCW 43.20A.110, certain powers and duties have been delegated by the secretary, DSHS. Writings evidencing delegations of authority are on file in the secretary's office and may be inspected between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

[Statutory Authority: RCW 34.04.020. 80-13-057 (Order 1544), § 388-08-560, filed 9/17/80.]

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

- (a) Issue a nonbinding declaratory ruling, or
- (b) Notify the person that no declaratory ruling is to be issued, or

(c) Set a reasonable time and place for hearing argument upon the matter, and give reasonable notification to the person of the time and place for such hearing and of the issues involved.

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

- (a) Issue a binding declaratory ruling, or
- (b) Issue a nonbinding declaratory ruling, or
- (c) Notify the person that no declaratory ruling is to be issued.

[Order 524, § 388-08-580, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-580, filed 4/1/68.]

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

(a) At the top of the page shall appear the wording "Before the state department of social and health services." On the left side of page below the foregoing the

following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory ruling." Opposite the foregoing caption shall appear the word "petition."

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

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

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

(a) At the top of the page shall appear the wording "Before the state department of social and health services." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of rule (or rules)." Opposite the foregoing caption shall appear the word "petition."

(b) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(c) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the department. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size.

[Order 768, § 388-08-590, filed 1/10/73; Order 524, § 388-08-590, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-590, filed 4/1/68.]

## Chapter 388-09 WAC

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

WAC	
388-09-010	Administrative hearing--Child welfare agency--Denial, suspension, revocation, or nonrenewal of license.
388-09-020	Administrative hearing--Applicability of chapter 388-08 WAC.
388-09-030	Administrative hearing--Appearance and practice before department--Who may appear.
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 388-09-030 Administrative hearing--Appearance and practice before department--Who may appear.** In a hearing under WAC 388-09-010 only the following may appear in a representative capacity:

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

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington

are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law;

(3) A bona fide officer, partner, or full time employee of an individual firm, association, partnership or corporation who appears for such individual firm, association, partnership or corporation.

[Order 525, § 388-09-030, filed 3/31/71, effective 5/1/71; Order 285, § 388-09-030, filed 4/1/68.]

**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 388-10 WAC

## PROTECTION OF HUMAN RESEARCH SUBJECTS

WAC	
388-10-010	Purpose.
388-10-020	Definitions.
388-10-030	Statement of policy.
388-10-040	Implementation.
388-10-050	General applicability.
388-10-060	Documentation of research proposals and review dispositions.
388-10-070	Human research review guidelines.

**WAC 388-10-010 Purpose.** The purpose of this chapter shall be to establish rules implementing the department's policy for the protection of departmental wards, clients, and employees who serve as human subjects in research and related activities. These rules do not supersede or limit the applicability of other state and federal laws and regulations. For example, see Title 45, Part 46 of the Code of Federal Regulations.

[Statutory Authority: RCW 43.20A.550. 81-17-022 (Order 1687), § 388-10-010, filed 8/12/81.]

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

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

(3) "Human subject" means a person about whom an investigator (whether professional or student) conducting research obtains data (a) through intervention or interaction with the person, (b) through observation of the person's behavior, or (c) from personal records and other private information sources.

[Statutory Authority: RCW 43.20A.550. 81-17-022 (Order 1687), § 388-10-020, filed 8/12/81.]

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

(2) It is the intent of the department's human subjects protection policy that review of research and related activities by the review board determine that the rights and welfare of clients, wards, and employees are adequately protected; that risks to individuals are minimized, are not unreasonable and are outweighed by the potential benefits to them or by the knowledge to be gained; and that the proposed project design and methods are adequate and appropriate in the light of stated project purposes.

[Statutory Authority: RCW 43.20A.550. 81-17-022 (Order 1687), § 388-10-030, filed 8/12/81.]

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

(2) To assure continued protection of human subjects in on-going research at the activity site, departmental service units involved in a significant number of research and related activities shall establish their own research oversight committees. These local committees shall function as extensions of the human research review board. They shall be responsible for providing ethical and procedural oversight in accordance with the review board's directions.

(3) Review of proposals requiring professional competencies beyond those represented on the human research review board shall require prior and written review consultation with at least four research experts who are competent to judge the scientific merit, benefits, and risks of the proposed research.

[Statutory Authority: RCW 43.20A.550. 81-17-022 (Order 1687), § 388-10-040, filed 8/12/81.]

**WAC 388-10-050 General applicability.** The department's human research review rules shall apply to all organizational units of the department. They shall apply to all research and related activities that involve

departmental clients, wards, or employees as human subjects or that require disclosure of their personal records, regardless of funding source, and regardless of whether the research is conducted by a departmental employee or by a nondepartmental investigator. The rules shall apply to all research and related activities subcontracted by the department under state and federal grants and contracts to nondepartmental organizations and individuals, regardless of whether the research or related activity involves departmental clients or a nondepartmental subject population.

[Statutory Authority: RCW 43.20A.550. 81-17-022 (Order 1687), § 388-10-050, filed 8/12/81.]

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

(2) The director of the departmental unit responsible for human research review policy administration shall document in writing all review dispositions affecting research and related activity proposals submitted to the department. In the case of unfavorable dispositions, such documentation shall contain a statement of the reasons for the negative disposition.

[Statutory Authority: RCW 43.20A.550. 81-17-022 (Order 1687), § 388-10-060, filed 8/12/81.]

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

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

- (a) Applicability;
- (b) Responsibility for policy and rule implementation;
- (c) Basic definitions;
- (d) Proposal format and content;
- (e) Review and certification requirements;
- (f) Activities exempt from review requirements;
- (g) Approval and disapproval authority; appeals;
- (h) Qualification requirements for investigators;
- (i) Review board composition and functions;
- (j) Review of ongoing research projects;
- (k) Informed consent requirements;
- (l) Disclosure of personal records for research purposes;
- (m) Publication conditions;
- (n) Provisions for adapting guidelines to the changing requirements of state and federal laws and regulations.

[Statutory Authority: RCW 43.20A.550. 81-17-022 (Order 1687), § 388-10-070, filed 8/12/81.]

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

## WAC

388-11-010	Statutory basis.
388-11-011	Definitions.
388-11-015	Credits allowable in satisfaction of debt.
388-11-030	Notice and finding of financial responsibility.
388-11-040	Service of notice and finding of financial responsibility.
388-11-045	Service requirements—Tolling.
388-11-050	Failure to make request for hearing.
388-11-055	Petition for hearing after twenty days—Stay.
388-11-060	Request for hearing.
388-11-065	Responsible parent to show cause—Affirmative defenses—Burden of proof.
388-11-070	Continuance of cases.
388-11-080	Requests for admission.
388-11-090	Hearings examiner.
388-11-100	Duty of hearing examiner.
388-11-105	Review of initial decision.
388-11-115	Fraud—Vacation of decision.
388-11-120	Default.
388-11-130	Decision and order after hearing.
388-11-135	Service.
388-11-140	Modification.
388-11-145	Notice to appellant.
388-11-150	Consent order and agreed settlement.
388-11-155	Duration of obligation.
388-11-170	Collection of debts determined.
388-11-180	Procedural reference.
388-11-185	Discovery.
388-11-190	Scale of minimum contributions.

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

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

**WAC 388-11-010 Statutory basis.** RCW 74.20A-.055 is the administrative process for determination of or establishment of support obligations when there is no superior court order. These provisions contain the administrative method to be used when there is an absence of a superior court order in cases where a notice and finding of financial responsibility has been served by the office of support enforcement or their agent on the responsible parent. Action based on chapter 74.20A RCW may not be based on agreements. The notice and finding of financial responsibility may be served only for a support debt or responsibility to support accrued and/or to be established under sections 17 and/or 22, chapter 171, Laws of 1979 ex. sess. RCW [74.20.320] [74.20.330], 74.20A.030, 74.20.040, 26.16.205 and/or 74.20A.250 relating to a period of time when a superior court order did not exist, specifically including cases eligible for nonassistance support enforcement services under WAC 388-14-302.

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

**WAC 388-11-011 Definitions.** 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.]

**WAC 388-11-015 Credits allowable in satisfaction of debt.** Pursuant to RCW 74.20.101 after a notice and finding of financial responsibility has been served on the responsible parent, satisfaction in whole or in part of the debt may be obtained only by cash, check, or money order payments through the office of support enforcement. After service of said notice, any attempt to satisfy the debt by providing the caretaker, custodian, vendor or other third party with cash, check, money order or in-kind, noncash, nonnegotiable items or services, including payments to for any item vendors or other third parties of items included in the public assistance standards, is conclusively presumed to be gifts and will not be credited against the debt. Family necessities provided directly to the caretaker/custodian, or children, or provided through vendors or third parties, may be credited against the debt only if they are provided prior to service of the notice and finding of financial responsibility on the responsible parent pursuant to WAC 388-11-040. To obtain such credit the responsible parent has the burden of proving, by a preponderance of the evidence, that such items provided were, at that time, intended to satisfy, in whole or in part, the common law or statutory obligation of said responsible parent; Provided, no credit may be given for items which are not food, clothing, shelter or medical attendance: *Provided, further*, That shelter payments made may not be credited against any

debt for any period determined under chapter 388-11 WAC in an amount greater than the shelter allocation in the public assistance standards for the same period or one-half of the actual shelter payment made, whichever is the greater. Any credit given shall be classified as a payment of child support and shall be treated consistent with rules of eligibility in effect at the time of payment. After assignment has been made pursuant to WAC 388-24-108, any support payments made subsequent to assignment shall be treated pursuant to WAC 388-14-210.

[Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-015, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-015, filed 6/15/78; Order 1054, § 388-11-015, filed 9/25/75.]

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

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

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

(b) The name of the child or children on whose behalf need is alleged;

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

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

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

(f) A statement that the support debt, as assessed and determined and ordered is subject to collection action and that the property of the debtor, without further advance notice or hearing, is subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver to satisfy the debt.

(g) A statement that, after service of the notice, all payments made which are intended to satisfy a current and/or accrued child support obligation alleged in the notice must be made directly to the office of support enforcement. Payments made to any other party will not be credited against the debt. Whether or not such payment is in cash, check, money order, in-kind services, merchandise, or anything else of value.

[Statutory Authority: RCW 74.08.090. 86-05-009 (Order 2340), § 388-11-030, filed 2/12/86; 80-01-026 (Order 1465), § 388-11-030, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-030, filed 6/15/78; Order 1054, § 388-11-030, filed 9/25/75; Order 875, § 388-11-030, filed 11/16/73.]

**WAC 388-11-040 Service of notice and finding of financial responsibility.** The notice and finding of financial responsibility shall be served on the responsible parent by the office of support enforcement or their agent in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. The receipt shall be prima facie evidence of service.

[Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-040, filed 12/14/79; Order 1054, § 388-11-040, filed 9/25/75; Order 875, § 388-11-040, filed 11/16/73.]

**WAC 388-11-045 Service requirements--Tolling.** (1) For support obligations owed for months on or after September 1, 1979:

If the notice and finding of financial responsibility is not served within sixty days from the date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought, the department shall lose the right to reimbursement of payments made after the sixty days and before the date of service of the notice: *Provided*, That if the department exercises reasonable efforts to locate the debtor and is unable to do so, the entire sixty-day period is tolled until such time as the debtor can be located.

(2) For support obligations owed for months before September 1, 1979, and for which a final determination was issued on or after September 1, 1979:

(a) If the notice and finding of financial responsibility is not served within six months from the date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought, the department shall lose the right to reimbursement of payments made after the six months and before the date of service of the notice: *Provided*, That if the department exercises reasonable efforts to locate the debtor and is unable to do so, the entire six-month period is tolled until such time as the debtor can be located. Such reasonable efforts to locate shall be supported by contemporaneous recordings in the department's file.

(b) The provisions of WAC 388-11-045(2) are intended to implement the holding of *Gangon vs. DSHS*, Thurston County Cause Number 80-2-01004-0.

[Statutory Authority: RCW 74.08.090. 83-17-007 (Order 1997), § 388-11-045, filed 8/5/83; 80-06-088 (Order 1507), § 388-11-045, filed 5/28/80; 80-01-026 (Order 1465), § 388-11-045, filed 12/14/79.]



**WAC 388-11-050 Failure to make request for hearing.** If the responsible parent fails to object, in a timely manner, to the finding of responsibility of the office of support enforcement, such findings as are stated in the notice and finding of financial responsibility shall become final subject to the provisions of WAC 388-11-055. The debt, as stated, and/or the future periodic support payments to prospectively satisfy liability under sections 17 and/or 22, chapter 171, Laws of 1979 ex. sess. RCW [74.20.320] [74.20.330], 74.20A.030, 74.20.040 or 26.16.205, and/or 74.20A.250 shall be subject to collection action.

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

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

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

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

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

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

Notice of this hearing shall be mailed to the parties by certified mail, not less than ten days prior to the scheduled date of the hearing. The petition for setting temporary current and future support may be brought at any time prior to the final decision. The hearing examiner shall, in writing, order payment of temporary, current and future support in an amount determined pursuant to the scale of minimum contributions in WAC 388-11-190 unless such payment is contrary to law. Payment shall be ordered to be paid beginning with the month in which the petition for an untimely hearing is granted.

(4) In the event the responsible parent does not make payment of the temporary current and future support as

ordered, the office of support enforcement may take collection action pursuant to chapter 74.20A RCW during the pendency of the hearing or thereafter to collect any amounts owing under the temporary order.

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

(6) If the final decision of the department or the courts on appeal is that the department has collected an amount from the responsible parent greater than such parents past support debt, other than temporary current and future support, such excess shall promptly be refunded to such parent.

[Statutory Authority: RCW 74.08.090, 80-01-026 (Order 1465), § 388-11-055, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-055, filed 6/15/78.]

**WAC 388-11-060 Request for hearing.** Any responsible parent who objects to all or any part of the notice and finding of financial responsibility shall have the right, for not more than twenty days from the date of service of said notice and finding of financial responsibility, to request, in writing, a hearing which request shall be served upon the office of support enforcement by registered or certified mail or personally. A request for hearing, pursuant to this section, shall not be construed to be or considered as a general denial of requests for admission pursuant to WAC 388-11-080. The execution of the notice and finding of financial responsibility shall be stayed only until the final decision on such hearing. Further stays may be obtained only pursuant to RCW 34.04.130(3). If an objection is received, the secretary or the secretary's designee shall notify the appellant, his attorney, or other designated representative, of the date, time and place of the hearing, at least twenty days prior to the date thereof by written notice to the appellant or his representative by registered or certified mail. The hearing shall be scheduled within thirty days of the date of receipt of the objection. If the time, date or place is inconvenient to either party, the hearing examiner may grant a new time, date or place as is reasonably convenient upon a showing of good cause.

[Statutory Authority: RCW 74.08.090, 80-01-026 (Order 1465), § 388-11-060, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-060, filed 6/15/78; Order 1054, § 388-11-060, filed 9/25/75; Order 875, § 388-11-060, filed 11/16/73.]

**WAC 388-11-065 Responsible parent to show cause--Affirmative defenses--Burden of proof.** At the hearing held pursuant to WAC 388-11-060, the responsible parent shall show cause, if any there be, why the finding of financial responsibility and/or the amount prayed for therein is inaccurate, and why the hearing examiner should not enter an initial decision and order

as prayed for in said notice and finding of financial responsibility but should either rescind or modify the same. In said show cause hearing, the responsible parent shall state affirmatively and shall have the burden of proving:

- (1) Estoppel;
- (2) Payment;
- (3) Release;
- (4) Superior court order;
- (5) Lack of eligibility in the receipt of public assistance funds paid to or for the benefit of the responsible parent's minor child or children: *Provided*, That lack of eligibility shall operate as a defense only as to debt accrued prior to September 1, 1979: *Provided further*, That lack of eligibility shall operate as a defense to a responsible parent's liability to repay the department only to the extent the amount of ineligibility proven in any one month exceeds the difference between the total grant for that month and the amount of the support liability determined for that month;
- (6) The appellant is not a responsible parent;
- (7) Inability to pay the amount determined;
- (8) Lack of need and/or debt pursuant to RCW 26.16.205: *Provided*, That the amount determined by reference to the schedule of suggested minimum contributions in WAC 388-11-190, based on the earnings, resources, and property of the responsible parent shall be a rebuttable presumption of the responsible parent's ability to pay and the need of the family on whose behalf action is being taken. If said presumption is rebutted, the office of support enforcement shall be afforded reasonable opportunity to present additional evidence of actual need with the right to a continuance on request to present said evidence: *Provided further*, Said rebuttable presumption shall apply whether or not the child or children are recipients of or applicants for public assistance. The responsible parent shall be presumed to have no ability to pay from income received from AFDC, SSI, or continuing general assistance;
- (9) Discharge in bankruptcy;
- (10) The responsible parent, pursuant to chapter 74.20 RCW, should be excused from making support payments for the child or children, receiving or on whose behalf public assistance was provided under chapter 74.12 RCW, because the responsible parent is the legal custodian of the child or children and has been wrongfully deprived of physical custody of the child or children: *Provided however*, That the responsible parent may only be excused from making support payments for the period or periods during which the responsible parent was wrongfully deprived of custody. In order to be excused from making support payments, the responsible parent must show:

(a) A court of competent jurisdiction of this state or another state has entered an order giving legal and physical custody of the child or children to the responsible parent;

(b) The custody order has not been altered, changed, modified, superseded, or dismissed;

(c) The child or children were taken or enticed from the physical custody of the responsible parent without

his or her consent, and the responsible parent has not subsequently assented to being deprived of physical custody of the child or children; and

(d) The responsible parent, within a reasonable time of the date the responsible parent was wrongfully deprived of physical custody of the child or children, exerted and has continued to exert reasonable efforts to regain physical custody of the child or children;

(11) Medical insurance coverage is not available at a reasonable cost: *Provided*, That if such coverage is available through the responsible parent's employer or other organization at a cost to the responsible parent of twenty-five dollars per month or less, there shall be a rebuttable presumption that coverage is available at a reasonable cost; and

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

Except as provided for in chapter 388-08 WAC for discovery, the hearing examiner or review examiner shall not require the office of support enforcement to produce or obtain information, documents, or witnesses to assist the responsible parent in proof of defenses raised pursuant to WAC 388-11-065 except for that relevant, non-confidential information or documents which the office of support enforcement has in its possession.

[Statutory Authority: RCW 74.08.090, 86-05-009 (Order 2340), § 388-11-065, filed 2/12/86; 83-21-014 (Order 2036), § 388-11-065, filed 10/6/83; 80-01-026 (Order 1465), § 388-11-065, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-065, filed 6/15/78; Order 1054, § 388-11-065, filed 9/25/75.]

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

[Order 1054, § 388-11-070, filed 9/25/75; Order 875, § 388-11-070, filed 11/16/73.]

**WAC 388-11-080 Requests for admission.** Either the office of support enforcement or the responsible parent may serve upon the other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of RCW 74.20A.055. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The request may, without leave of the hearing examiner, be served upon the other party together with, or at any time subsequent to the service of the notice and finding of financial responsibility upon the responsible parent. Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within

twenty days after service of the request or within such shorter or longer time as the hearing examiner may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or denial addressed to the matter, signed by the party or his attorney. If denial is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. The party who has requested the admission may move to determine the sufficiency of the answers or denials. Unless the hearing examiner determines that an objection is justified, he will order that an answer be served. If the hearing examiner determines that an answer does not comply with the requirements of this rule, he may order either that matter is admitted or that an amended answer be served. The hearing examiner may, in lieu of these orders, determine that final disposition of the request be made at a pretrial conference or at a designated time prior to hearing. Any matter admitted under this rule is conclusively established unless the hearing examiner on motion permits withdrawal or amendment of the admission for good cause shown. Any admission made by a party under this rule is for the purpose of the pending action only and is not an admission by him for any other purpose nor may it be used against him in any other proceeding.

[Order 1054, § 388-11-080, filed 9/25/75; Order 875, § 388-11-080, filed 11/16/73.]

**WAC 388-11-090 Hearings examiner.** The hearing shall be conducted by a duly qualified hearings examiner appointed by the secretary for such purpose who was not previously involved in any way with the action in question. Any party may request the removal of the assigned hearings examiner for good cause shown. Requests to remove hearings examiners shall be ruled upon promptly by the field office supervisor. Requests to remove field office supervisors acting as the assigned hearings examiner shall be ruled upon by the hearings review chief.

[Statutory Authority: RCW 34.04.020, 80-06-090 (Order 1505), § 388-11-090, filed 5/28/80. Statutory Authority: RCW 74.08.090, 78-07-015 (Order 1305), § 388-11-090, filed 6/15/78; Order 875, § 388-11-090, filed 11/16/73.]

**WAC 388-11-100 Duty of hearing examiner.** Based on the notice and finding of financial responsibility and objections made thereto, the hearing examiner shall determine the liability and responsibility, if any, of the responsible parent under RCW 74.20A.057. The hearing examiner shall also determine the amount of periodic

payments to be made to satisfy past, present or future liability and the responsible parent's liability for medical expenses including responsibility to provide medical insurance coverage. The hearing examiner shall include in his or her consideration the standards in WAC 388-11-190 and the uniform child support guidelines adopted by the Washington state association of superior court judges. The hearing examiner is empowered, upon proper showing of unusual circumstances, to set an amount of support, as to the past, present, or future, at a greater or lesser amount than the amount stated or computed in reference to the scale in WAC 388-11-190 and shall include in his or her consideration:

- (1) All earnings and income resources of the responsible parent, including real and personal property;
- (2) The earnings potential of the responsible parent;
- (3) The reasonable necessities of the responsible parent;
- (4) The ability of the responsible parent to borrow;
- (5) The needs of the child for whom the support is sought;
- (6) The amount of assistance which would be paid to the child under the full standard of need of the state's public assistance plan;
- (7) The existence of other dependents; and
- (8) That the child, for whom support is sought, benefits from the income and resources of the responsible parent on an equitable basis in comparison with any other minor children of the responsible parent.

In determining the responsible parent's liability for medical expenses, including responsibility to provide medical insurance coverage, the hearing examiner shall consider:

- (a) The known or anticipated medical needs of the child or children;
- (b) The cost of medical coverage and whether or not such coverage is available through the responsible parent's employer or other organization at a reasonable cost to the responsible parent;
- (c) The earnings and resources of the responsible parent;
- (d) The reasonable necessities of the responsible parent; and
- (e) The amount of the responsible parent's child support obligation, which obligation shall have priority over the obligation to provide medical coverage unless the hearing examiner makes a finding of fact that the medical needs of a child are extraordinary, and the best interest of the child would be better served if medical coverage is provided.

The findings of fact as to unusual circumstances shall consist of a concise statement of each fact found upon each contested issue of fact and shall state the grounds for deviation from the standards in WAC 388-11-190. The hearing examiner shall make his or her initial decision and enter his or her findings of fact based on the notice and finding of financial responsibility and the evidence admitted at the hearing.

The office of support enforcement has a right to orally amend the notice and finding of financial responsibility, at the time of hearing, to conform to the evidence in

which case the hearing examiner is empowered, when deemed necessary, through continuance, to allow the responsible parent additional time to present rebutting evidence and/or argument as to the amendment.

After evidence has been presented at a hearing conducted by a hearing examiner, the hearing examiner shall enter an initial decision and order which shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the order based thereon. The decision and order shall include a notice that, if the responsible parent fails to make periodic payments as ordered, the entire arrearage shall be collectable by the office of support enforcement and that collection action, including but not limited to the issuance of an order to withhold and deliver against the earnings or property of the responsible parent, may be initiated without further notice.

The hearing examiner shall file the original of the initial decision and order signed by him or her with the secretary or his or her designee, and copies thereof shall be mailed by the hearing examiner to the office of support enforcement and to the appellant by certified mail to the last known address of the party.

[Statutory Authority: RCW 74.08.090, 86-05-009 (Order 2340), § 388-11-100, filed 2/12/86; 80-01-026 (Order 1465), § 388-11-100, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-100, filed 6/15/78; Order 1054, § 388-11-100, filed 9/25/75; Order 875, § 388-11-100, filed 11/16/73.]

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

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

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

(2) Misconduct of prevailing party;

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

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

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

(6) Error in mathematical computation;

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

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

(9) That substantial justice has not been done;

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

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

(12) That the decision and order entered, because the responsible parent failed to appear at the hearing, should be vacated and the matter be remanded upon showing of the grounds enumerated in RCW 4.72.010 or CR 60.

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

After receipt of a petition for review, the secretary or the secretary's designee shall consider the initial decision and order, the petition or petitions for review, the record or any part thereof and such additional evidence and argument as he may in his or her discretion allow. The secretary or the secretary's designee may remand the proceedings to the hearing examiner for additional evidence, argument, and/or for entry of findings of fact, conclusions of law and an initial decision in conformance with the order of remand. The secretary or the secretary's designee may deny review of the initial decision and order and thereupon deny the petition or petitions at which time the initial decision and order shall be final as of the date of said denial and all parties shall forthwith be notified, in writing, of said denial by certified mail to the last known address of the parties. Unless the petition is denied, the secretary or the secretary's designee shall review the initial decision and order and shall make the final decision and order of the department. The final decision and order shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law. The initial findings of fact, conclusions of law, and decision and order shall not be modified unless the findings of fact are unsupported by substantial evidence in view of the entire record and/or unless the applications of law in the initial decision are incorrect in the reasoned opinion of the review examiner. A copy of the decision and order, including the findings and conclusions, shall be mailed to each party to the appeal by certified mail to the last known address of the party. The decision and order shall authorize collection action, as appropriate, under chapter 74.20A RCW.

[Statutory Authority: RCW 74.08.090, 81-05-021 (Order 1605), § 388-11-105, filed 2/11/81; 80-01-026 (Order 1465), § 388-11-105, filed 12/14/79.]

**WAC 388-11-115 Fraud--Vacation of decision.** (1)

Any initial decision, final decision or consent order may be vacated if the decision or order was based upon fraud by any witness or party.

(2) The motion to vacate shall be filed within a reasonable period after the date that the fraud has been discovered or should have been discovered.

[Statutory Authority: RCW 74.08.090, 81-05-021 (Order 1605), § 388-11-115, filed 2/11/81; 80-01-026 (Order 1465), § 388-11-115, filed 12/14/79.]

**WAC 388-11-120 Default.** If the responsible parent fails to appear at the hearing, the hearing examiner shall, upon showing of valid service, enter an initial decision and order declaring the support debt and payment provisions stated in the notice and finding of financial responsibility to be assessed and determined and subject to collection action.

[Statutory Authority: RCW 74.08.090, 80-01-026 (Order 1465), § 388-11-120, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-120, filed 6/15/78; Order 1054, § 388-11-120, filed 9/25/75; Order 875, § 388-11-120, filed 11/16/73.]

**WAC 388-11-130 Decision and order after hearing.** The hearing examiner shall, within twenty days of the hearing, enter findings, conclusions, and an initial decision determining liability and responsibility and/or future periodic support payments. The determination of the hearing examiner entered pursuant to this section if not reviewed, or the final decision if there is a review shall be entered as a decision and order and shall limit the support debt under sections 17 and/or 22, chapter 171, Laws of 1979 ex. sess. RCW [74.20.320] [74.20.330], 74.20A.030, 74.20.040 and/or 26.16.205 and/or 74.20A.250 to the amount stated in said decision. Said decision establishing liability and/or future periodic support payments shall be superseded upon entry of a superior court order for support to the extent the superior court order is inconsistent with the hearing order or decision.

[Statutory Authority: RCW 74.08.090, 80-01-026 (Order 1465), § 388-11-130, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-130, filed 6/15/78; Order 875, § 388-11-130, filed 11/16/73.]

**WAC 388-11-135 Service.** Service of the decision and order or notice of hearing pursuant to WAC 388-11-120 or 388-11-130 shall be by mailing a copy of the decision and order or notice of hearing to the last known address of the appellant by certified mail, and by mailing a copy of said decision and order or notice of hearing to the last known address of appellant's attorney or other representative at the hearing, if any.

[Statutory Authority: RCW 74.08.090, 81-05-021 (Order 1605), § 388-11-135, filed 2/11/81; 78-07-015 (Order 1305), § 388-11-135, filed 6/15/78.]

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

cause order setting forth the time, date, and place of the show cause hearing.

The hearing shall be a contested case, shall be set not less than fifteen days nor more than thirty days from the date of service unless extended for good cause shown.

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

An order to appear and show cause under this modification provision may not issue unless the previous decision, determination pursuant to WAC 388-11-150 or consent order of which modification is requested was entered pursuant to RCW 74.20A.055 and there is no superior court order for support. The hearing examiner, on petitions to modify, shall consider the standards set forth in WAC 388-11-100. If the responding party fails to appear at the hearing, the hearing examiner shall grant relief as a default order based upon the prayer for relief in the petition and affidavit. Within thirty days of entry of the default order, the defaulting party may petition the secretary or the secretary's designee pursuant to WAC 388-11-105 to vacate the default order upon a showing of any of the grounds enumerated in RCW 4.72.010 or CR 60. If the petitioner fails to appear at the hearing, the hearing examiner shall enter an order dismissing the petition for modification. The hearing examiner may set the effective date of prospective modification as either the date of entry of the order or the date of receipt of the petition or any time in between, but if no effective date is set, the effective date shall be the date of the entry of the order. Any decision and order under this section shall be an initial decision by the hearing examiner subject to a petition for review by the secretary or the secretary's designee pursuant to WAC 388-11-105.

It shall not be necessary for the responsible parent or the office of support enforcement to show material change of circumstances if prospective modification is sought as to a final determination for periodic future support payments pursuant to WAC 388-11-050.

[Statutory Authority: RCW 74.08.090, 81-05-021 (Order 1605), § 388-11-140, filed 2/11/81; 80-01-026 (Order 1465), § 388-11-140, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-140, filed 6/15/78; Order 1054, § 388-11-140, filed 9/25/75; Order 875, § 388-11-140, filed 11/16/73.]

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

Whenever the department has notified the appellant of this responsibility, mailing by the department by certified mail to the appellant's last known address constitutes service of notice under chapter 388-11 WAC.

[Statutory Authority: RCW 74.08.090, 80-01-026 (Order 1465), § 388-11-145, filed 12/14/79.]

**WAC 388-11-150 Consent order and agreed settlement.** In the absence of a superior court order, informal disposition of any contested case or petition or order to show cause for modification wherein a support obligation is claimed pursuant to RCW 74.20A.057 is encouraged where feasible and not specifically precluded by law. Said cases may be disposed of by consent order or agreed settlement, "agreed settlement" being defined as a written agreement signed by each party, which is effective without approval of any hearings examiner. If a consent order is involved, the hearings examiner shall approve that consent order disposing of a contested case unless specifically contrary to law. Informal disposition on consent order shall be deemed to be a request for hearing granting jurisdiction to the hearings examiner to approve said consent order without the necessity of testimony or hearing, upon presentation by the office of support enforcement. If negotiations as to a consent order or agreed settlement are commenced within twenty days of service on the responsible parent of the notice and finding of financial responsibility, and such negotiations fail and the responsible parent serves an objection on OSE within twenty days of the negotiations failing, the objection shall be considered timely served. The obligation to pay support or repay the debt, unpaid when due, stated in the consent order or agreed settlement is subject to collection action. Consent orders or agreed settlements are not subject to review pursuant to WAC 388-11-105 but are subject to modification pursuant to WAC 388-11-140 and may be vacated for fraud pursuant to WAC 388-11-115. Consent orders and agreed settlements shall contain the following provisions:

(1) That the responsible parent shall provide medical insurance coverage for his or her dependent child or children if such coverage is available at a responsible cost; and

(2) That appropriate collection action, including but not limited to the issuance of an order to withhold and deliver against the debtor's earnings or property, may be initiated by the office of support enforcement without further notice to collect the entire arrearage if the responsible parent fails to make periodic payments as provided.

[Statutory Authority: RCW 74.08.090, 86-05-009 (Order 2340), § 388-11-150, filed 2/12/86; 82-17-068 (Order 1864), § 388-11-150, filed 8/18/82; 81-05-021 (Order 1605), § 388-11-150, filed 2/11/81; 80-01-026 (Order 1465), § 388-11-150, filed 12/14/79; Order 875, § 388-11-150, filed 11/16/73.]

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

period of time during which the child is in the lawful physical custody of the responsible parent other than for purposes of visitation.

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

**WAC 388-11-170 Collection of debts determined.** Whenever an order designating the amount of periodic payments to be made to satisfy a past liability or periodic future support obligation has not been complied with, the accrued debt, not paid, and any current delinquency, shall become due in full and the portion of the order designating periodic payments to satisfy past, accrued liability shall be deemed to be vacated without the necessity of further action by the hearing examiner. After such vacation, collection action pursuant to chapter 74.20A RCW by the office of support enforcement as authorized representative of the secretary as to debts determined, accrued, and unpaid may not be stayed by the hearing examiner and is subject only to review by the superior court pursuant to RCW 74.20A.200.

[Statutory Authority: RCW 74.08.090, 78-07-015 (Order 1305), § 388-11-170, filed 6/15/78; Order 1054, § 388-11-170, filed 9/25/75; Order 875, § 388-11-170, filed 11/16/73.]

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

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

In determining the validity of defenses to liability asserted pursuant to WAC 388-11-065(5) other provisions of the Washington Administrative Code shall be applied.

[Statutory Authority: RCW 74.08.090, 80-01-026 (Order 1465), § 388-11-180, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-180, filed 6/15/78; Order 1054, § 388-11-180, filed 9/25/75; Order 875, § 388-11-180, filed 11/16/73.]

**WAC 388-11-185 Discovery.** Either party may petition the hearing examiner for interrogatories and/or depositions for use as evidence in a hearing. The petitioner shall give reasonable notice of not less than five days in writing to the department's examiner and all parties. After notice is served for taking a deposition, the hearing examiner, upon his own motion or upon motion reasonably made by any party or by the person to be examined and for good cause shown, may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on

written interrogatories, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and counsel. Unless otherwise ordered, the deponent may be examined regarding any matter not privileged or confidential which is relevant to the subject matter involved in the proceeding.

If deemed expeditious, the hearing examiner may take or cause to be taken, depositions and interrogatories for use as evidence in any hearing.

[Order 1054, § 388-11-185, filed 9/25/75.]

#### **WAC 388-11-190 Scale of minimum contributions.**

The rates shown in this section are established pursuant to RCW 74.20.270. They define levels of minimum contributions based on "net income" for use in determining the amount that a parent will be required to contribute to or for the benefit of his child(ren).

The rates are twenty-four percent of net income for one child, thirty-five percent of net income for two children, forty-two percent of net income for three children and forty-eight percent of net income for four or more children. Minimum contribution shall be calculated by the following steps:

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

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

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

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

"Income" includes all payment of moneys to the responsible parent, including, if married, all payment of moneys to the marital community of a responsible parent from any sources whatsoever. "Net income" is defined for purposes of this scale as all income of the responsible parent, including, if married, all income available to the marital community of which the responsible parent is a member remaining after the deduction from that income of any amount required by law to be withheld. Moneys paid for support of natural or stepchildren living with and being supported by the responsible parent or the marital community of which he is a member including but not limited to child support, SSI, OASI, shall be added to the net income of the responsible parent without deduction of any amounts prior to determination of the proportionate share for each child in subsection (2) of this section. Other available resources, real and personal property available and/or saleable and income therefrom including the ability to borrow and the earnings potential of the responsible parent shall be considered in determining minimum contributions. Contributions shall not, except as provided

for in WAC 388-11-100(5) be lessened by consideration of debts of the responsible parent. Public policy found in both state and federal laws requires preference for support of minor dependent children from the funds of the responsible parent.

[Statutory Authority: RCW 74.08.090, 78-07-015 (Order 1305), § 388-11-190, filed 6/15/78; Order 1119, § 388-11-190, filed 5/13/76; Order 875, § 388-11-190, filed 11/16/73.]

### **Chapter 388-13 WAC**

#### **RECOVERY OF SUPPORT PAYMENTS**

##### **WAC**

388-13-010	Debt, assignment, recoupment, set-off.
388-13-020	Notice of support debt.
388-13-030	Service of notice of support debt.
388-13-040	Failure to make answer or request for hearing.
388-13-050	Petition for hearing after twenty days—Stay.
388-13-060	Timely request for hearing.
388-13-070	Hearing—Initial decisions.
388-13-080	Review of initial decision.
388-13-085	Collection action.
388-13-090	Limitation on proceeding.
388-13-100	Acknowledgment of debt.
388-13-110	Default.
388-13-120	Procedural reference.

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

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

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

(4) Action may be taken alternatively or simultaneously under subsections (1), (2) and (3) of this section

but in no event may the department recoup and retain more moneys than the debt described under subsection (1) of this section, refunding the excess, without deduction of fees, to the custodian of the children.

(5) The custodial parent or other person shall be given an accounting of actions taken under subsections (2) or (3) of this section.

[Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-010, filed 12/14/79.]

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

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

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

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

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

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

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

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

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

(9) A statement that a support debt, as assessed and determined, is subject to collection action and that the property of the debtor, without further advance notice or hearing, is subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver to satisfy the debt: *Provided*, That no collection action may be taken against a recipient of public assistance during the period of time the recipient remains on assistance except as provided in RCW 74.20A.270 and WAC 388-14-200(4).

[Statutory Authority: RCW 74.08.090. 86-05-009 (Order 2340), § 388-13-020, filed 2/12/86; 80-01-026 (Order 1465), § 388-13-020, filed 12/14/79.]

**WAC 388-13-030 Service of notice of support debt.** The notice of support debt shall be served on the person,

firm, corporation, association, or political subdivision or any officer or agent thereof by the office of support enforcement or its agent in the manner prescribed for the service of a summons in a civil action, or by certified mail, return receipt requested. The receipt shall be prima facie evidence of service.

[Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-030, filed 12/14/79.]

**WAC 388-13-040 Failure to make answer or request for hearing.** If the person, firm, corporation, association, or political subdivision or any officer or agent thereof served with a notice of support debt fails to answer, in a timely manner, the claim of the department shall be assessed and determined and subject to collection action as a support debt pursuant to chapter 74.20A RCW.

[Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-040, filed 12/14/79.]

**WAC 388-13-050 Petition for hearing after twenty days—Stay.** (1) The person, firm, corporation, association, political subdivision or any officer or agent thereof served with a notice of support debt at any time within one year from the date of service of said notice may petition the secretary or the secretary's designee for a hearing, as provided for but not previously granted pursuant to WAC 388-13-070, upon a showing of any of the grounds enumerated in RCW 4.72.010 or CR 60. A copy of said petition shall also be served by certified mail, return receipt requested, or by service in the manner of a summons in a civil action on the district field office of the office of support enforcement. The filing of the petition shall not stay any collection action being taken, but the debtor may petition the secretary or the secretary's designee for an order staying collection action pending final decision of the secretary or the secretary's designee or the courts on an appeal made pursuant to chapter 34.04 RCW.

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

(3) If a request for hearing is received, the department shall notify the appellant, his attorney, or other designated representative, of the date, time and place of the hearing, at least twenty days prior to the date thereof by written notice to the appellant or his or her representative by certified mail.

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



The hearing shall be promptly scheduled within thirty days of the date of receipt of the request for hearing. If the time, date or place is inconvenient to either party, the hearing examiner may grant a new time, date or place as is reasonably convenient upon a showing of good cause.

[Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-050, filed 12/14/79.]

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

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

The hearing shall be promptly scheduled within thirty days of the date of receipt of the request for hearing. If the time, date or place is inconvenient to either party, the hearing examiner may grant a new time, date or place as is reasonably convenient upon a showing of good cause.

[Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-060, filed 12/14/79.]

**WAC 388-13-070 Hearing--Initial decisions.** (1) If the hearing is granted, it shall be an administrative hearing limited to the determination of the ownership of the moneys claimed in the notice of support debt and/or the reasonableness of a repayment agreement presented to a public assistance recipient for the purpose of recovering child support under RCW 74.20A.270 and WAC 388-14-200 (4) and (5). The right to the hearing is conditioned upon holding any funds not yet disbursed or expended or to be received in the future in trust pending the final order in these proceedings or during any appeal to the courts. The secretary or the secretary's designee shall enter an appropriate order providing for the terms of the trust.

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

(1986 Ed.)

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

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

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

(6) The hearing examiner shall file the original of the initial decision and order, signed by him or her, with the secretary or the secretary's designee and copies thereof shall be mailed by the hearing examiner to the office of support enforcement and to the debtor by certified mail to the last address provided by each party.

(7) To the extent they do not conflict with these rules or RCW 74.20A.270, the provisions of chapter 388-11 WAC and RCW 74.20A.055 shall apply to this process.

[Statutory Authority: RCW 74.08.090. 86-05-009 (Order 2340), § 388-13-070, filed 2/12/86; 80-01-026 (Order 1465), § 388-13-070, filed 12/14/79.]

**WAC 388-13-080 Review of initial decision.** The review process provided for in WAC 388-11-105 shall apply to actions under this chapter.

[Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-080, filed 12/14/79.]

**WAC 388-13-085 Collection action.** Action may be taken under chapter 74.20A RCW to collect debts determined, but unpaid under chapter 388-13 WAC.

[Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-085, filed 12/14/79.]

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

(2) Payments not credited against the department's debt pursuant to RCW 74.20.101 may not be assessed or collected under chapter 388-13 WAC.

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[Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-090, filed 12/14/79.]

**WAC 388-13-100 Acknowledgment of debt.** If the debtor makes answer to the notice of support debt acknowledging that the department owns the support payments in issue, the office of support enforcement shall be authorized to take collection action pursuant to chapter 74.20A RCW if the debtor fails to pay said debt within twenty-one days of the date of receipt of said answer.

[Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-100, filed 12/14/79.]

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

(2) Within thirty days of entry of the decision and order in subsection (1) of this section, the debtor may petition the secretary or the secretary's designee to vacate the decision and order and remand the matter upon the showing of any of the grounds enumerated in RCW 4.72.010 or CR 60.

[Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-110, filed 12/14/79.]

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

(2) Any provisions of chapter 388-11 or 388-14 WAC not in conflict with these rules or section 17 or 18, chapter 171, Laws of 1979 ex. sess. [RCW 74.20.320 and 74.20A.270], shall apply to actions under this chapter.

[Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-120, filed 12/14/79.]

### Chapter 388-14 WAC SUPPORT ENFORCEMENT

WAC	
388-14-010	Office of support enforcement as the Title IV-D agency.
388-14-020	Definitions.
388-14-030	Confidentiality.
388-14-100	Absent parent's responsibility—Liability.
388-14-200	Eligibility—Assignment of support rights—Cooperation with office of support enforcement—Effect of noncooperation.
388-14-205	Responsibilities of the office of support enforcement.
388-14-210	Support payments to office of support enforcement.
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388-14-250	Payments to the family.
388-14-260	Distribution—Referrals from other states.
388-14-270	Distribution of support payments—Public assistance.
388-14-300	Support enforcement services for child(ren) not receiving public assistance—Statutory basis.
388-14-302	Nonassistance support enforcement—Persons eligible.
388-14-305	Nonassistance support enforcement—Application.
388-14-310	Nonassistance support enforcement—Applicant/custodian's authorization.
388-14-320	Nonassistance support enforcement—Distribution.

388-14-325	Nonassistance support enforcement—Termination of services.
388-14-350	Location of absent parents.
388-14-360	Cooperation with other states.
388-14-365	Reassignment by state administering an approved plan.
388-14-370	Cooperative arrangements with courts and law enforcement officials.
388-14-385	Conference board.
388-14-390	Petition for hearing when collection action is initiated against a bank account—Exemptions—Burden of proof.
388-14-395	Limitation on collection of support payments from head of household—Request for conference board—Burden of proof.
388-14-400	Order to withhold and deliver—Issuance and termination.
388-14-405	Order to withhold and deliver—Responsibilities of employer.
388-14-410	Release of information to consumer reporting agency.
388-14-415	Notice of support debt.

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

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

(2) The office of support enforcement is designated and established as the single and separate organizational unit within the state of Washington to administer the plan which shall be in effect in all political subdivisions of the state of Washington.

(3) The office of support enforcement is the operating agency referred to in federal rules and regulations as the Title IV-D agency. The office of support enforcement is authorized to assume any and all responsibilities assigned the Title IV-D agency.

(4) The office of support enforcement is authorized to enter into agreements as required or authorized with other states and the secretary, Department of Health and Human Services.

(a) To contract with other states for the referral of cases under the Uniform Reciprocal Enforcement of Support Act and other cases where enforcement or collection of support location of absent parents or establishment of paternity are appropriate. Include in such

agreements the procedures for making referrals, assigning debt, distributing incentive payments, and reporting actions and activities on the part of this state for another, or another state for this state and coordination of activities pursuant to and ensuring compliance with the Uniform Reciprocal Enforcement of Support Act.

(b) To contract with the secretary, Department of Health and Human Services and maintain liaison for:

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

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

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

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

(6) The office of support enforcement is responsible for the state-wide administration of wage withholding pursuant to federal statutes and regulations.

[Statutory Authority: RCW 74.08.090, 86-05-009 (Order 2340), § 388-14-010, filed 2/12/86; Order 1054, § 388-14-010, filed 9/25/75.]

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

(2) The term "applicant/custodian" shall designate the individual who is the physical custodian of any dependent child or children on whose behalf a request for nonassistance support enforcement services has been made to the office of support enforcement pursuant to RCW 74.20.040 and 42 U.S.C. 654(6) or 42 U.S.C. 657(C).

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

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

(b) Is a natural, or adoptive parent, or a stepparent owing a legal duty to support said child or children on whose behalf an application has been made for payment of public assistance or application has been made for nonassistance support enforcement services.

(4) "Putative father" as used in this section shall include any and all men who may possibly be the father of

the child or children on whose behalf the application for assistance or support enforcement services may be made. See also WAC 388-14-200 (2)(c).

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

(6) "Title IV-D" refers to Title IV-D of the Social Security Act established under Title XX of the social security amendments and as incorporated in 42 U.S.C. (602).

(7) "Title IV-D plan" refers to a plan established under the conditions of Title IV-D approved by the secretary, Department of Health and Human Services.

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

(9) "Incentive payments" are payments distributed pursuant to WAC 388-14-370 to prosecuting attorneys or other political subdivision on the basis of enforcement and collection of support payments.

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

(11) "Family" shall mean the person or persons on behalf of whom support is sought which unit may include a custodial parent or other person and one or more children or a child or children in foster care placement.

(12) "Residential care" means foster care as defined in WAC 388-70-012.

(13) "Head of household" means the responsible parent or parents with whom the dependent child or children were residing at the time of placement in foster care.

(14) The term "resident" shall include persons physically present in the state of Washington intending to make their home in this state. Temporary absence from the state does not destroy residence once established.

[Statutory Authority: RCW 74.08.090, 86-05-009 (Order 2340), § 388-14-020, filed 2/12/86; 83-21-014 (Order 2036), § 388-14-020, filed 10/6/83; 80-01-026 (Order 1465), § 388-14-020, filed 12/14/79; Order 1054, § 388-14-020, filed 9/25/75.]

**WAC 388-14-030 Confidentiality.** The department shall not give out any information to the absent parent concerning the recipient in the conduct of activities associated with this chapter except as authorized in chapter 388-48 WAC.

[Order 1054, § 388-14-030, filed 9/25/75.]

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

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

(2) Payment of arrears which may be paid on a mutually agreed schedule adequate to satisfy said arrears prior to expiration of the statute of limitations.

[Order 1054, § 388-14-100, filed 9/25/75.]

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

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

(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 388-14-205 Responsibilities of the office of support enforcement.** (1) The office of support enforcement shall undertake, when public assistance is paid, nonassistance support enforcement services are requested, or support enforcement services are requested by a child support enforcement agency in another state to:

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

(b) Secure support for a child from any person legally liable for such support. Whenever possible and/or appropriate under the circumstances, the office of support enforcement shall initiate action under chapter 74.20A RCW to establish, enforce, and collect the child support obligation.

(2) The office of support enforcement will not act to establish paternity or secure child support in any case for which it has received notice that the CSO has determined that there has been a finding of good cause under WAC 388-24-111.

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

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

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

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

(c) The office of support enforcement will be a party to any hearing requested as a result of an applicant's or recipient's appeal of any agency action under WAC 388-24-111.

[Statutory Authority: RCW 74.08.090, 86-05-009 (Order 2340), § 388-14-205, filed 2/12/86; 79-06-032 (Order 1400), § 388-14-205, filed 5/16/79; 78-09-053 (Order 1330), § 388-14-205, filed 8/22/78.]

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

(2) All support moneys routed directly to a recipient of public assistance, or to another on behalf of a recipient of public assistance, by any person or agency other than the office of support enforcement shall be remitted by the recipient or other person or agency to the office of support enforcement within eight days of receipt of the payment.

[Statutory Authority: RCW 74.08.090, 80-01-026 (Order 1465), § 388-14-210, filed 12/14/79; Order 1054, § 388-14-210, filed 9/25/75.]

**WAC 388-14-220 Subpoena power.** The chief, of the office of support enforcement or his designee is a duly appointed officer empowered to issue subpoena of witnesses, books, records, etc., pursuant to RCW 74.04-.290 and chapters 388-11 and 388-14 WAC as to matters he deems relevant to the performance of his duties.

[Statutory Authority: RCW 74.08.090, 81-05-021 (Order 1605), § 388-14-220, filed 2/11/81; 78-07-015 (Order 1305), § 388-14-220, filed 6/15/78; Order 1054, § 388-14-220, filed 9/25/75.]

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

[Order 1054, § 388-14-250, filed 9/25/75.]

**WAC 388-14-260 Distribution--Referrals from other states.** (1) When 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 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.

(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 subsection (2)(c) of this section. 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 no child support collection is received. 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 subsection (2)(a) of this section 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 subsection (2)(a) and (b) of this section, 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 subsection (2)(a), (b), and (c) of this section, 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 subsection (2)(a), (b), (c), and (d) of this section, 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.

Payments to the family pursuant to this subsection may be made only during the five months following the last month in which aid was paid and thereafter if the former recipient authorizes the office of support enforcement to continue to provide support enforcement services.

[Statutory Authority: RCW 74.08.090, 86-05-009 (Order 2340), § 388-14-270, filed 2/12/86; 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 388-14-300 Support enforcement services for child(ren) not receiving public assistance--Statutory basis.** As authorized by RCW 74.20.040, the department through its office of support enforcement provides support enforcement services to custodians of minor children not receiving public assistance.

[Order 1054, § 388-14-300, filed 9/25/75.]

**WAC 388-14-302 Nonassistance support enforcement--Persons eligible.** (1) Any resident of the state of Washington who is a physical custodian of a dependent child who is a resident of the state of Washington and who is not a recipient of public assistance may request nonassistance support enforcement services to establish, 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. If a person other than the applicant has legal custody of the dependent child by order of a court, the applicant shall affirm that the legal custodian has not been wrongfully deprived of custody by the applicant and would not be excused from making support payments in accordance with WAC 388-11-065(10), in order to be eligible for support enforcement services.

(1986 Ed.)

(2) If a request for nonassistance support enforcement services is denied, a written notice of the denial shall be sent by regular mail and shall include a statement of the reasons for the denial and a statement that the applicant may request an administrative hearing to contest the denial.

(3) Any person who has been provided support enforcement services as a result of an approved application for public assistance may also request nonassistance support enforcement services effective with the date of termination of public assistance. A request 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 five months following the 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 or by operation of law under RCW 74.20A.030. 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 five-month period, and thereafter, if authorized to do so by the former recipient. All support moneys collected, during the five-month period, except those collected to satisfy arrears assigned to the department under RCW 74.20.320, 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, 86-05-009 (Order 2340), § 388-14-302, filed 2/12/86; 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 388-14-305 Nonassistance support enforcement--Application.** (1) A person desiring nonassistance support enforcement services shall complete the appropriate forms requesting the services. The necessary forms must be completed in full, dated, signed, and forwarded to the district office of support enforcement. Copies of divorce or dissolution decrees, support orders and modifications thereof, and any allied or related documents which reflect the marital and support status, shall be supplied by the applicant.

(2) The applicant shall also include or attach a statement of the amount of accrued arrears and list by date and amount all support payments received during the period of time when the arrears accrued. The office of support enforcement may require this statement to be by affidavit. The applicant may also be required to submit a written statement affirming the legal custodian has not been wrongfully deprived of custody of the dependent child or children, or affirming the applicant is and will continue to be a resident of this state even though the applicant is or will be temporarily absent from the state. Requests on which statements are incomplete, unclear,

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or inconsistent will be denied and no service will be provided until such time as the request for services is presented in acceptable form.

(3) The appropriate forms will be available at any community service office of the department of social and health services or at any district office of the office of support enforcement. The forms may be requested by phone, mail, or obtained personally.

[Statutory Authority: RCW 74.08.090. 86-05-009 (Order 2340), § 388-14-305, filed 2/12/86; 80-01-026 (Order 1465), § 388-14-305, filed 12/14/79; Order 1054, § 388-14-305, filed 9/25/75.]

**WAC 388-14-310 Nonassistance support enforcement—Applicant/custodian's authorization.** (1) The applicant shall submit a written request for support enforcement services and authorize the office of support enforcement to initiate appropriate action to establish, enforce, and collect the support obligation.

(2) The applicant/custodian shall give consent to the office of support enforcement to take an assignment of earnings from the person owing a duty to pay support; agree to remit within eight days of receipt to the office of support enforcement support moneys received directly from the person owing a duty to pay support during the period of time support enforcement services are maintained.

(3) The applicant/custodian, during the time support enforcement services are in effect, must send or deliver all support income received from the person owing a duty to pay support to the office of support enforcement providing the service and direct any payor or forwarding agent of moneys to remit directly to office of support enforcement. If the applicant/custodian fails to forward and/or fails to provide adequate documentation of such direct payment as requested, the office of support enforcement may discontinue providing support enforcement services.

[Statutory Authority: RCW 74.08.090. 86-05-009 (Order 2340), § 388-14-310, filed 2/12/86; 80-01-026 (Order 1465), § 388-14-310, filed 12/14/79; Order 1054, § 388-14-310, filed 9/25/75.]

**WAC 388-14-320 Nonassistance support enforcement—Distribution.** (1) Current support payments received on behalf of the applicant/custodian in the five-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 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, 388-14-200, or by operation of law 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. 86-05-009 (Order 2340), § 388-14-320, filed 2/12/86; 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 or services by written notice to the office of support enforcement.

(b) Upon receipt of the applicant/custodian's request for termination of support enforcement services, the office of support enforcement will discontinue 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 by the office of support enforcement:

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

(b) If the department or a court of competent jurisdiction determines the applicant/custodian has wrongfully deprived the responsible parent of physical custody of the dependent child or children in accordance with the provision of WAC 388-11-065(10).

(c) Upon receipt of verification that the responsible parent is dead if there is no available estate.

(d) If no payments have been collected within the last three years despite reasonable collection efforts and further collections are not foreseeable in the future.

(e) If the responsible parent cannot be located and all local, state, and federal locate sources have been exhausted, the case may be terminated after three years unless new locate information is provided by the applicant/custodian.

(f) When the applicant/custodian moves to and becomes a resident of another state or country: *Provided however*, That the office of support enforcement may continue to provide services for a period not to exceed five months from the date the applicant/custodian moves if such continued services are appropriate under the circumstances.

(g) If an applicant/custodian fails or refuses to provide supplementary information, fails or refuses to forward to the office of support enforcement support payments made direct or fails to provide adequate documentation of such payments, 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: *Provided however*, That services by office of support enforcement may not be terminated but may be limited or deferred as appropriate if office of support enforcement is given notice of and agrees to employment of a private attorney or collection agent and said actions

of the private attorney or collection agency do not conflict with, interfere with, or duplicate action taken by the office of support enforcement.

(3) When the office of support enforcement terminates services, the applicant/custodian shall 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 and a statement that the applicant/custodian may request an administrative hearing to contest termination, limitation, or deferral 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, court, or other forwarding agent.

[Statutory Authority: RCW 74.08.090, 86-05-009 (Order 2340), § 388-14-325, filed 2/12/86; 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.]

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

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

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

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

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

(d) Authorized persons as defined in 45 C.F.R. 303.15 to use the federal parent locator service in connection with parental kidnapping or child custody cases.

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

(a) The request is being made to locate an individual for the purpose of establishing paternity, securing support, or in connection with parental kidnapping or child custody cases, and for no other purpose;

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

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

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

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

(6) The office of support enforcement is authorized to enter into arrangements and otherwise cooperate with the secretary, department of health and human services in carrying out the purposes of 42 U.S.C. 653, including collection of fees for utilizing the federal parent locator service.

[Statutory Authority: RCW 74.08.090, 83-21-014 (Order 2036), § 388-14-350, filed 10/6/83; Order 1054, § 388-14-350, filed 9/25/75.]

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

(1) Establishing paternity, if necessary;

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

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

(4) Carrying out other functions required under a Title IV-D plan. The office of support enforcement on behalf of the department of social and health services will comply with such other requirements and standards as the secretary of the department of health, education and welfare determines to be necessary to the establishment of an effective program for locating absent or noncustodial parents, establishing paternity, obtaining support orders, and collecting support payments.

[Order 1054, § 388-14-360, filed 9/25/75.]

**WAC 388-14-365 Reassignment by state administering an approved plan.** A state administering a plan approved under Title IV-D of the Social Security Act may, on behalf of a resident of that state reassign to the

office of support enforcement those support rights assigned to that state pursuant to 42 U.S.C. 602 (a)(26)(A) when those rights have accrued under an order of the superior court of the state of Washington or of a court of jurisdiction comparable to the superior court of the state of Washington. The office of support enforcement may utilize all remedies in chapters 74.20 and 74.20A RCW to collect said reassigned rights.

[Statutory Authority: RCW 74.08.090, 80-01-026 (Order 1465), § 388-14-365, filed 12/14/79; Order 1054, § 388-14-365, filed 9/25/75.]

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

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

(3) In order to qualify for payments to states or incentive payments to localities, a political subdivision, court or law enforcement official of the state of Washington must obtain referral of the case or cases involved from the office of support enforcement and all support payments made subsequent to referral shall be paid to the office of support enforcement. In the case of actions under the Uniform Reciprocal Enforcement of Support Act initiated in another state, a political subdivision or law enforcement official of the state of Washington may obtain referral status by submitting documents as determined by agreement, to the office of support enforcement for acceptance under this plan.

(4) When a political subdivision of the state of Washington acting in compliance with the terms of an agreement entered into with the office of support enforcement or when a IV-D agency of another state under an approved Title IV-D plan or a political subdivision of another state pursuant to the approved Title IV-D plan makes the enforcement and collection

of the support rights assigned under 42 U.S.C. 602 (a)(26)(A), or sections 17 and 22, chapter 171, Laws of 1979 ex. sess. RCW [74.20.320] [74.20.330], the office of support enforcement is authorized to pay to such political subdivision or other IV-D agency the following amounts from the amounts which would otherwise represent the share of the moneys to be reimbursed to the federal government.

(a) An amount equal to 15 percent of any amount collected and retained by the state of Washington to reduce or repay assistance payments which represent payment on the required support obligation;

(b) When more than one agency or jurisdiction within the state of Washington or more than one state is involved in enforcement or collection the amount of incentive stated above shall be allocated among such jurisdiction in a manner prescribed by instructions issued by the office of child support enforcement of the department of health, education, and welfare.

[Statutory Authority: RCW 74.08.090, 80-01-026 (Order 1465), § 388-14-370, filed 12/14/79; 78-07-015 (Order 1305), § 388-14-370, filed 6/15/78; Order 1054, § 388-14-370, filed 9/25/75.]

**WAC 388-14-385 Conference board.** (1) A conference board is herewith established to make inquiry into, determine facts, and attempt to resolve matters in which a responsible parent, custodial parent, or other person feels aggrieved by actions taken by the office of support enforcement pursuant to chapters 74.20, 74.20A RCW, or Title IV-D of the Social Security Act (Title 42 U.S.C.).

(a) The intent and purpose of the conference board is to facilitate the informal speedy resolution of grievances by responsible parents, custodial parents, or other persons. An applicant for a conference board proceeding must have made a reasonable attempt and have failed to resolve the grievance or issue with the workers before a conference board may act to attempt to resolve the issue.

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

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

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

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

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

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

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

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

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

(vi) Requests for deferral of support enforcement action;

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

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

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

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

(xi) Requests for administrative review of cases submitted to the IRS for offset of a tax refund in accordance with federal statutes and regulations.

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

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

(4) Decisions to grant partial or total charge-off pursuant to RCW 74.20A.220 of arrears owed to the department of social and health services under RCW 74.20A.030, 74.20A.250, 74.20.320, 74.20.330, or 42 U.S.C. 602 (a)(26)(A) shall be based on the following considerations which shall be found and stated in the written decision of the conference board fully justifying the action taken:

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

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

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

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

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

[Statutory Authority: RCW 74.08.090; 86-05-009 (Order 2340), § 388-14-385, filed 2/12/86; 81-05-021 (Order 1605), § 388-14-385, filed 2/11/81; 80-01-026 (Order 1465), § 388-14-385, filed 12/14/79; 78-07-015 (Order 1305), § 388-14-385, filed 6/15/78.]

**WAC 388-14-390 Petition for hearing when collection action is initiated against a bank account--Exemptions--Burden of proof.** If the department initiates collection action against a bank account, the responsible parent or the joint owner of record of the bank account may petition the secretary or the secretary's designee for a hearing. The petition shall be served upon the office of support enforcement by registered or certified mail or personally within twenty days of the date a copy of the order to withhold and deliver was either mailed to or served upon the responsible parent pursuant to RCW 74.20A.080 or a written notice of the collection action was mailed by certified mail to the last known address of the joint owner of record of the account. The petition shall state the facts supporting the allegation by the responsible parent or the joint owner that the funds in the account, or a portion of those funds, are exempt from

satisfaction of the child support obligation of the responsible parent.

On the petition of the responsible parent, the joint owner of record, or OSE, a hearing shall be scheduled solely for the purpose of determining whether or not one of the following exemptions applies to the funds in the bank account:

(1) Pursuant to RCW 26.16.200 and 74.20A.120, the funds in the community bank account, or a portion of those funds which can be identified as the earnings of the spouse not owing a support obligation to the child or children of the responsible parent, are exempt from satisfaction of the child support obligation of the responsible parent.

(2) The funds in a bank account, or a portion of those funds which can be identified as AFDC funds, SSI monies, or other kinds of funds having been legally exempted from collection action, are exempt from satisfaction of the child support obligation of the responsible parent.

(3) The funds in a bank account which can be identified as being solely owned by the joint owner of record of the bank account not owing a child support obligation to the child or children of the responsible parent, are exempt from satisfaction of the child support obligation of the responsible parent.

The burden of tracing the funds and proving the funds in the bank account are exempt from satisfaction of the child support obligation of the responsible parent is on the responsible parent or the joint owner of record.

The secretary or the secretary's designee shall notify the parties or their designated representatives of the date, time, and place of the hearing at least twenty days prior to the scheduled date of the hearing by written notice to the parties or their representatives by registered or certified mail. If the parties waive their right to twenty days' notice of the hearing and request the hearing be scheduled on an expedited basis, however, the hearing shall be scheduled within fifteen days of the receipt of the petition for hearing and notice of the hearing shall be mailed to the parties not less than seven days prior to the scheduled date of the hearing. If the time, date, or place is inconvenient to either party, the hearing shall grant a new time, date, or place as is reasonably convenient upon a showing of good cause.

Moneys withheld as a result of collection action initiated against a bank account and delivered to the office of support enforcement at the time of the granting of a request for hearing shall be held by the office of support enforcement pending final order of the secretary or during the pendency of any appeal to the courts.

If the final decision of the department or courts on appeal is that the department has caused funds in a bank account that are exempt from satisfaction of the child support obligation of the responsible parent to be withheld by the bank or delivered to the department, the office of support enforcement shall promptly release the order to withhold and deliver or refund the proportionate

share of the funds having been identified as being so exempt. No interest shall accrue or be payable by the department on any moneys withheld pursuant to RCW 74.20A.080.

[Statutory Authority: RCW 74.08.090. 83-21-014 (Order 2036), § 388-14-390, filed 10/6/83.]

**WAC 388-14-395 Limitation on collection of support payments from head of household--Request for conference board--Burden of proof.** (1) Whenever the department provides residential care for a dependent child or children, the responsible parent or parents shall satisfy their obligation to support such child or children by paying to the department the amount specified in a court order when there is a superior court order for support, or by paying the amount determined under RCW 74.20A.055.

(2) The office of support enforcement is responsible on behalf of the department for taking action under the provisions of chapters 74.20 and 74.20A RCW and this chapter to enforce and collect support obligations as to children receiving residential care paid for by the department.

(3) The department may not collect and retain a support payment or a portion thereof in a given month for a dependent child or children for whom the department is providing residential care from a responsible parent who is the head of household if the income, as defined in RCW 74.04.005, for that month of the head of household and the remaining dependents was below or the effect of the support collection was to reduce the income of the household below the need standard for aid to families with dependent children. The obligation of the head of household to provide support for the child or children receiving residential care, however, will continue to accrue during any month the department is precluded from collecting and retaining support payments under this section.

(4) If the department has collected support payments from the head of household during a month or months where the income of the household was below or the effect of the collection was to reduce the income of the household below the need standard, the head of household may request, in writing, a conference board in accordance with WAC 388-14-385.

(5) The head of household has the burden of proving at the conference board that the income of the household was below or was reduced below the need standard during the month or months payments were collected.

(6) If the conference board determines the department has collected support payments from the head of household that the department is not entitled to retain in accordance with this section, the office of support enforcement shall promptly refund, without interest, any such support payments, or the portion of such a payment having the effect of reducing the income of the household below the need standard.

(7) This section is not applicable to payments collected prior to August 23, 1983.

[Statutory Authority: RCW 74.08.090. 83-21-014 (Order 2036), § 388-14-395, filed 10/6/83.]

**WAC 388-14-400 Order to withhold and deliver-- Issuance and termination.** (1) As provided under RCW 74.20A.040 or as otherwise appropriate under RCW 74.20A.055, the office of support enforcement may issue an order to withhold and deliver directed against the property, including but not limited to the earnings, of the debtor. If the debtor is delinquent in his or her support obligation as set forth in a superior court or administrative order for support in an amount equal to the support payable for one month, the office of support enforcement shall issue an order to withhold and deliver or take other wage withholding action as soon as the debtor's earnings have been identified. For purposes of this section, the debtor shall not be deemed to be delinquent in his or her support obligation if he or she is making periodic payments, pursuant to an administrative decision, a consent order, an agreed settlement, an assignment of earnings, or a support agreement, executed prior to October 1, 1985, in a timely manner and in an amount sufficient to satisfy current or future support and to make a reasonable periodic arrearage payment.

(2) The order to withhold and deliver shall remain in effect until the support debt has been paid in full or until it is released by the office of support enforcement and replaced by an assignment of earnings providing for payments in an amount sufficient to satisfy current or future support and make a reasonable arrearage payment.

(3) If the debtor wishes to contest or object to an order to withhold and deliver issued by the office of support enforcement, he or she may apply for relief to superior court.

[Statutory Authority: RCW 74.08.090. 86-05-009 (Order 2340), § 388-14-400, filed 2/12/86.]

**WAC 388-14-405 Order to withhold and deliver-- Responsibilities of employer.** (1) Where money is due and owing to the debtor under any contract of employment, the order to withhold and deliver shall direct the employer to begin withholding the disposable earnings of the debtor immediately upon receipt of the order and to remit any such earnings withheld after the expiration of the twenty-day answer period. The order shall direct the employer to remit earnings that are withheld subsequently within ten days of the date the earnings are due and owing to the debtor. The order shall also provide the employer may deduct a processing fee from the remainder of the debtor's earnings, even if the remainder would otherwise be exempt under RCW 74.20A.090. The processing fee shall not exceed ten dollars for the first remittance to the office of support enforcement and one dollar for each subsequent remittance.

(2) If the employer is required to withhold and deliver the disposable earnings of two or more debtors, the employer may combine the amounts withheld and remit a single check to the office of support enforcement. The employer shall clearly and separately identify the portions of the check which is attributable to each debtor and is required to remit the check within the time frames set forth in subsection (1) of this section.

(1986 Ed.)

(3) The order to withhold and deliver shall direct the employer to notify the office of support enforcement promptly when the debtor terminates employment and to provide the debtor's last known address and the name of the debtor's new employer if known.

[Statutory Authority: RCW 74.08.090. 86-05-009 (Order 2340), § 388-14-405, filed 2/12/86.]

**WAC 388-14-410 Release of information to consumer reporting agency.** When a consumer reporting agency, as defined by 45 CFR 303.105(a), requests information regarding the amount of overdue support owed by a responsible parent, the office of support enforcement shall provide such information if the amount of the support debt exceeds one thousand dollars. Prior to releasing such information, however, a written notice concerning the proposed release of the information shall be sent to the responsible parent's last known address. The notice shall provide the responsible parent has ten days from the date of the notice to request a conference board to contest the accuracy of the information. If the responsible parent requests a conference board, the office of support enforcement shall not release the information until a conference board decision has been issued.

[Statutory Authority: RCW 74.08.090. 86-05-009 (Order 2340), § 388-14-410, filed 2/12/86.]

**WAC 388-14-415 Notice of support debt.** The notice of support debt issued, pursuant to RCW 74.20A.040, shall contain a provision that appropriate collection action, including the issuance of an order to withhold and deliver against the earnings or property of the debtor, may be taken by the office of support enforcement without further notice after twenty days from the date of service of the notice if the debtor is delinquent in his or her support obligation in an amount equal to the support payable for one month.

[Statutory Authority: RCW 74.08.090. 86-05-009 (Order 2340), § 388-14-415, filed 2/12/86.]

## Chapter 388-15 WAC SOCIAL SERVICES FOR FAMILIES, CHILDREN AND ADULTS

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388-15-209	Chore services—Eligible individuals.	388-15-290	Juvenile delinquency prevention services. [Order 1238, § 388-15-290, filed 8/31/77; Order 1088, § 388-15-290, filed 1/19/76.] Repealed by 81-20-063 (Order 1708), filed 10/5/81. Statutory Authority: RCW 74.08.090.
388-15-212	Service determinations.	388-15-350	Mental health. [Order 1124, § 388-15-350, filed 6/9/76; Order 1088, § 388-15-350, filed 1/19/76.] Repealed by Order 1238, filed 8/31/77.
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#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-15-100	Services offered by the economic and social services office of the bureau of social services. [Order 1088, § 388-15-100, filed 1/19/76.] Repealed by Order 1238, filed 8/31/77.
388-15-140	Residential services. [Statutory Authority: RCW 74.08.044. 79-09-039 (Order 1425), § 388-15-140, filed 8/17/79; Order 1238, § 388-15-140, filed 8/31/77; Order 1147, § 388-15-140, filed 8/26/76; Order 1088, § 388-15-140, filed 1/19/76.] Repealed by 86-16-019 (Order 2392), filed 7/28/86. Statutory Authority: RCW 74.08.044.
388-15-172	Day care participation. [Statutory Authority: RCW 74.08.090. 80-15-010 (Order 1552, § 388-15-172, filed 10/6/80. Statutory Authority: RCW 43.20A-.550. 78-07-021 (Order 1306), § 388-15-172, filed 6/15/78.) Repealed by 82-04-074 (Order 1757), filed 2/3/82. Statutory Authority: RCW 74.08.090.
388-15-173	Parent participation day care. [Statutory Authority: RCW 74.08.090. 82-14-046 (Order 1837), § 388-15-173, filed 6/30/82.] Repealed by 86-03-078 (Order 2333), filed 1/22/86. Statutory Authority: RCW 74.08.090.

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

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

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

(c) Preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interests, providing family reconciliation services to families in conflict and runaways or preserving, rehabilitating or reuniting families.

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

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

(2) Only one goal shall be pursued at any one time in the provision of services; however several services may be given to achieve the selected goal.

[Statutory Authority: RCW 74.08.090. 81-20-063 (Order 1708), § 388-15-010, filed 10/5/81; 78-09-098 (Order 1335), § 388-15-010, filed 9/1/78; Order 1238, § 388-15-010, filed 8/31/77; Order 1088, § 388-15-010, filed 1/19/76.]

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



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

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

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

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

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

(i) No individual or family is eligible for family planning or alcoholism services whose gross family income is in excess of fifty percent of the state median income for a family of four, adjusted for family size.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Child welfare services may also be provided under Title IV-B of the Social Security Act.

[Statutory Authority: RCW 74.08.090. 81-18-045 (Order 1697), § 388-15-020, filed 8/28/81; 81-10-013 (Order 1645), § 388-15-020, filed 4/27/81; 81-01-087 (Order 1581), § 388-15-020, filed 12/19/80; 80-02-049 (Order 1477), § 388-15-020, filed 1/16/80; 79-01-041 (Order 1360), § 388-15-020, filed 12/21/78; 78-09-098 (Order 1335), § 388-15-020, filed 9/1/78. Statutory Authority: RCW 43.20A.550. 78-04-004 (Order 1276), § 388-15-020, filed 3/2/78; Order 1238, § 388-15-020, filed 8/31/77; Order 1204, § 388-15-020, filed 4/1/77; Order 1171, § 388-15-020, filed 11/24/76; Order 1147, § 388-15-020, filed 8/26/76; Order 1124, § 388-15-020, filed 6/9/76; Order 1120, § 388-15-020, filed 5/13/76; Order 1088, § 388-15-020, filed 1/29/76.]

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

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

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

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

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

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

(6) Notice shall be given to applicants for or recipients of services to indicate that they have been found eligible or ineligible for services. Notice shall be given to a recipient of the department's planned action to reduce, suspend, or terminate; such notices shall follow and be in accord with WAC 388-33-376, 388-33-382, and 388-33-385.

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

(8) Services may be only provided to accomplish the specific goals for the particular services as designated in the state service plan and rules.

(9) WAC 388-33-377 is incorporated by reference to determine the circumstances under which services will be continued pending a hearing when a recipient of services requests a fair hearing to appeal the department's planned action to reduce, suspend, or terminate services.

[Statutory Authority: RCW 74.08.090. 81-09-058 (Order 1640), § 388-15-030, filed 4/20/81; 79-08-112 (Order 1420), § 388-15-030, filed 7/31/79; Order 1238, § 388-15-030, filed 8/31/77; Order 1147, § 388-15-030, filed 8/26/76; Order 1088, § 388-15-030, filed 1/19/76.]

#### **WAC 388-15-110 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) AUTHORITY. The authority for adult protective services is:

- (a) Chapter 74.34 RCW for vulnerable adults,
- (b) Chapter 26.44 RCW for dependent adults, and
- (c) 42 U.S.C. 13.97 for other adults in need of protection.

(2) GOALS. The department shall limit adult protective services goals to those specified in WAC 388-15-010 (1)(c), (d), and (e) and 388-15-010(2).

(3) DESCRIPTION OF SERVICES. Adult protective services are those services provided to prevent, correct, improve, or remedy the situations of:

- (a) Dependent adults eighteen years of age or older,
- (b) Vulnerable adults sixty years of age or older, or
- (c) Other adults similarly unable to protect interests vital to their safety and well-being.

(4) ELIGIBILITY. To receive protective services:

- (a) Elements must exist of abuse, abandonment, exploitation, or neglect including living conditions or life style constituting a danger to the adult or others, and
- (b) There must be no one willing and able to assist the adult responsibly.

(5) INVESTIGATION. The department shall respond to all reports of abuse, neglect, exploitation, or abandonment of vulnerable and dependent adults.

(a) The department shall determine if a valid adult protective service situation exists.

(b) The department may refuse to investigate reports which do not constitute abuse, exploitation, neglect, or abandonment as defined by RCW 74.34.020.

(c) The department shall conduct investigations regardless of the adult's income.

(6) SUPPORT SERVICES. The department shall provide support services without regard to income only:

(a) When the services are essential to, and a subordinate part of, the adult protective services plan and

(b) For a period not to exceed the period specified in the WAC chapter regulating that service.

[Statutory Authority: RCW 74.08.090, 86-20-017 (Order 2426), § 388-15-120, filed 9/22/86; 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 388-15-130 Child protective services.** The authority for the department's child protective services program is chapter 26.44 RCW and RCW 74.13.031.

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

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

(3) Goals for child protective services shall be limited to those specified in WAC 388-15-010 (1)(c). Also see WAC 388-15-010(2).

[Statutory Authority: RCW 74.08.090 and 1979 c 155, 79-10-026 (Order 1431), § 388-15-130, filed 9/10/79. Statutory Authority: RCW 74.08.090, 78-09-098 (Order 1335), § 388-15-130, filed 9/1/78; Order 1238, § 388-15-130, filed 8/31/77; Order 1088, § 388-15-130, filed 1/19/76.]

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

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

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

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

[Statutory Authority: RCW 74.08.090 and 1979 c 155, 79-10-026 (Order 1431), § 388-15-131, filed 9/10/79; Order 1255, § 388-15-131, filed 12/1/77.]

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

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

(2) Any child so reported shall be eligible for child protective services and shall remain eligible until it is determined that he is not suffering from maltreatment and his welfare is not or is no longer in jeopardy.

[Statutory Authority: RCW 74.08.090 and 1979 c 155, 79-10-026 (Order 1431), § 388-15-132, filed 9/10/79; Order 1238, § 388-15-132, filed 8/31/77.]

**WAC 388-15-134 Child protective services--Notification--Substantiation.** (1) The department shall notify the parents, stepparents, guardians or other persons having custody of the child or other person alleged to be the abuser that the department has received a report alleging condition(s) specified in WAC 388-15-132 unless the report is for informational purposes only because the situation has been resolved by law enforcement and/or by the courts. The identity of the person making the report to the department shall not be revealed unless that person has given permission to do so.

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

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

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

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

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

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

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

(7) Even if the report is not substantiated, service may continue as per WAC 388-15-132.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-15-134, filed 9/10/79; Order 1238, § 388-15-134, filed 8/31/77.]

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

(2) Purposes of the central registry shall be to

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

(b) Make case information available in usable form on request to those persons and agencies specified in chapter 26.44 RCW.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-15-136, filed 9/10/79; Order 1238, § 388-15-136, filed 8/31/77.]

**WAC 388-15-137 Central registry--Reports.** Reports to be included in the central registry shall be submitted by the CSO. Eligible persons may obtain available information by contacting the CSO or the central registry.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-15-137, filed 9/10/79; Order 1238, § 388-15-137, filed 8/31/77.]

**WAC 388-15-138 Central registry--Information--Release--Dissemination--Expungement.** (1) Information provided from the central registry and from case records to the requesting persons and agencies shall not be further disseminated or released and shall be respected as confidential.

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

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

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

(c) Whether the abused is mentally retarded;

(d) Date of incident;

(e) Substantiated incident(s) of nonaccidentally inflicted

(i) Death,

(ii) Physical injury or injuries,

(iii) Physical neglect,

(iv) Sexual abuse,

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

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

(g) The social service case number;

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

(3) Reports in the central registry shall be expunged and sealed, if after six years from the date of the last filed report, there have been no subsequent reports about the child and/or the alleged perpetrator. Reports in the central registry may also be expunged and sealed upon the request of the reporting CSO with the concurrence of all other reporting CSOs, if any. Sealed records may be revived if there is a subsequent report after expungement. Sealed records about the state or condition of the child which contain no reference to the person responsible for the abuse may also be revived for purposes of treating the child.

(4) If the CSO case record regarding the incident has not been destroyed already, this information shall be expunged and sealed at the same time as the central registry information is expunged and sealed. Information regarding the state or condition of the child may be maintained in the CSO case record, if there is no reference to the person responsible for the abuse.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-15-138, filed 9/10/79; Order 1238, § 388-15-138, filed 8/31/77.]

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

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

(2) Provide documentation that the applicant is:

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

(b) A bona fide agency/organization whose activities deal with prevention, diagnosis and treatment of child abuse and neglect now engaging in research by enclosing articles of incorporation; bylaws; project proposal or statement of goals and objectives; contracts for funding and/or service; and the research proposal.

[Order 1238, § 388-15-139, filed 8/31/77.]

**WAC 388-15-145 Nursing home discharge allowance.** A one-time allowance may be issued to medical care program eligible nursing home residents who are ready for discharge.

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

(2) Persons eligible for the discharge allowance must:

(a) Have no existing independent residence or have a residence which cannot be reestablished without monetary assistance,

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

(c) Have no more than six hundred dollars in cash or other liquid resources which could be converted at face value to cash within thirty days.

(3) The discharge allowance issued is based on the actual amount required to establish or reestablish an independent residence for the individual with a maximum of four hundred dollars.

[Statutory Authority: RCW 74.08.090. 86-10-021 (Order 2367), § 388-15-145, filed 5/1/86; 79-12-028 (Order 1456), § 388-15-145, filed 11/16/79.]

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

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

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

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

(5) See also WAC 388-70-010 and following.

[Order 1238, § 388-15-150, filed 8/31/77; Order 1088, § 388-15-150, filed 1/19/76.]

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

families and administer the state's adoption subsidy for private agencies and the department.

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

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

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

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

(5) See also WAC 388-70-510 and following.

[Order 1238, § 388-15-160, filed 8/31/77; Order 1088, § 388-15-160, filed 1/19/76.]

**WAC 388-15-170 General and seasonal day care services.** (1) Day care services include providing care, protection, and related services for a child under fifteen years of age during the portion of the twenty-four-hour day when neither of the child's parents are able to provide necessary care and supervision for the following reasons:

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

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

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

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

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

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

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

(3) Child care, except for seasonal farmworker day care, shall be purchased for children or families who are:

(a) Family units whose gross income is equal to or below thirty-eight percent of the state median income adjusted for family size;

(b) Family units whose gross income is above thirty-eight and at or below fifty-two percent of the SMIAFS wherein the family shall pay to the day care provider fifty percent of their gross monthly income above the thirty-eight percent SMIAFS toward the cost of day care.

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

(4) Eligibility for seasonal farmworker day care is:

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

(b) Must derive at least fifty percent of the family's annual income from agriculturally related work; and

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

(d) Must have a gross income for the past twelve months not to exceed thirty-eight percent of the state median income adjusted for family size; or gross income above thirty-eight percent and at or below fifty-two percent of the state median income adjusted for family size wherein the family shall pay to the day care provider fifty percent of their average gross monthly income above the thirty-eight percent state median income adjusted for family size toward the cost of day care.

(5) Standards for in-home care:

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

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

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

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

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

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

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

(i) Be eighteen years of age or older;

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

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

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

(v) Produce written references indicating he or she is capable of handling children of the ages for whom he or she will be caring and has the ability to provide activities suitable to the children's ages and interests;

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

(vii) Be able to accept and follow instructions;

(viii) Maintain personal cleanliness;

(ix) Be prompt and regular in job attendance;

(x) Expect to be evaluated as specified in subsection (5)(d)(i) through (ix) of this section.

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

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

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

(iii) Provide appropriate activities for children in care.

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

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

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

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

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

(e) Payment for child care to nonresponsible relative: Where a child receiving AFDC is living with a nonresponsible relative not on AFDC and day care is required to support the relative's employment, the child is eligible for day care.

[Statutory Authority: RCW 74.08.090, 86-12-051 (Order 2387), § 388-15-170, filed 6/3/86; 86-03-078 (Order 2333), § 388-15-170, filed 1/22/86; 83-02-028 (Order 1931), § 388-15-170, filed 12/29/82. Statutory Authority: RCW 43.20A.550, 82-14-048 (Order 1839), § 388-15-170, filed 6/30/82. Statutory Authority: RCW 74.08.090, 82-01-051 (Order 1735), § 388-15-170, filed 12/16/81; 81-10-034 (Order 1650), § 388-15-170, filed 4/29/81; 80-15-010 (Order 1552), § 388-15-170, filed 10/6/80. Statutory Authority: RCW 43.20A.550, 78-04-004 (Order 1276), § 388-15-170, filed 3/2/78; Order 1238, § 388-15-170, filed 8/31/77; Order 1204, § 388-15-170, filed 4/1/77; Order 1147, § 388-15-170, filed 8/26/76; Order 1124, § 388-15-170, filed 6/9/76; Order 1120, § 388-15-170, filed 5/13/76; Order 1088, § 388-15-170, filed 1/19/76.]

**WAC 388-15-190 Day care for the aged--Age 60 and over.** (1) Day care services are a program of services provided at three locations in the state for aged people who do not require 24-hour institutional care, but due to

physical and/or mental impairment are not capable of full-time independent living. Services include nursing service and rehabilitative services, such as occupational therapy, physical therapy and speech therapy; personal care services, i.e., assistance with walking, eating, toileting, grooming, social work services; recreational and social activities. Each center will also provide a hot meal at noon and necessary transportation for participants.

(2) Goals for day care for the aged shall be limited to those specified in WAC 388-15-010 (1)(c), (d). Also see WAC 388-15-010(2).

[Order 1238, § 388-15-190, filed 8/31/77; Order 1088, § 388-15-190, filed 1/19/76.]

**WAC 388-15-200 Health support services.** (1) Health support services are services to direct individuals and families to physicians and other health services to help them to attain and maintain a favorable condition of health. Such services also include helping them to identify and understand their health needs, seek medical aid and follow through on medical recommendations. Part of the service may be contacting relatives and friends to enlist their help and encouragement in supporting individuals in following through on their health plans; coordination with Title XIX services or contacting physicians or other health providers to gain a better understanding of the client's medical situation. Where appropriate, arranging for homemaker service, chore service, home nursing, health aides, or home delivered meals may be a component of health support services. Early and periodic screening, diagnosis and treatment is a mandatory health support service for eligible individuals under age 21 to evaluate their state of health and to detect and correct medical conditions that would interfere with their future health.

(2) Goals for health support services shall be limited to those specified in WAC 388-15-010 (1)(a) through (e). Also see WAC 388-15-010(2) and 388-95-275.

[Order 1238, § 388-15-200, filed 8/31/77; Order 1147, § 388-15-200, filed 8/26/76; Order 1088, § 388-15-200, filed 1/19/76.]

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

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

(3) Goals for chore services for adults and families shall be limited to those specified in WAC 388-15-010 (1)(b), (c), and (d). Also see WAC 388-15-010(2).

[Statutory Authority: RCW 74.08.090. 81-18-045 (Order 1697), § 388-15-207, filed 8/28/81; 81-06-063 (Order 1618), § 388-15-207, filed 3/4/81.]

**WAC 388-15-208 Definitions.** (1) "Chore services" means services in performing light work and household and other personal tasks which eligible persons are unable to do for themselves because of frailty or handicapping conditions.

(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 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, 86-12-040 (Order 2383), § 388-15-208, filed 5/30/86; 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 at time of eligibility determination;
- (iii) Who have gross family income, adjusted for family size, at or below 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. Deduct one hour of chore services for each percentage point income exceeds thirty percent SMI. Deduct an additional hour of service for each percentage point income exceeds fifty percent SMI. For attendant care, payment shall be reduced an equivalent to the hourly unit rate.

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

(g) Individuals at risk of being placed in a residential care facility and who are age sixty or over 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 services 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 or boats, recreational vehicle or vehicles, or excess automobiles;
- (viii) Liquid assets: Such as cash, gold, silver, and other items of an investment and negotiable nature.

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

- (i) A home and lot normal for the community where the client or applicant resides;



- (ii) Used and useful household furnishings, personal clothing, and one automobile per client;
- (iii) Personal property of great sentimental value;
- (iv) Real or personal property used by the applicant or recipient to earn income or to rehabilitate himself or herself;
- (v) One cemetery plot for each member of the family unit;
- (vi) Cash surrender value of life insurance.

[Statutory Authority: RCW 74.08.090, 86-12-040 (Order 2383), § 388-15-209, filed 5/30/86; 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 for 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

CRQ SCORE	CEILING HOURS PER MONTH
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) Funds are available under provisions of WAC 388-15-215(11).

(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, 86-12-040 (Order 2383), § 388-15-212, filed 5/30/86; 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 fifty-five 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 \$18.50	up to \$550
12 - 15	up to \$16.50	up to \$495
8 - 11	up to \$13.50	up to \$405
4 - 7	up to \$ 9.00	up to \$270
2 - 3	up to \$ 6.00	up to \$180
1	up to \$ 3.40	up to \$102

Up to seventy-five 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 sixty-five 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, 86-08-085 (Order 2361), § 388-15-213, filed 4/2/86; 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 388-15-217 Chore or attendant care services for employed disabled adults.** (1) Notwithstanding other provisions of WAC 388-15-207 through 388-15-215, employed disabled adults shall be eligible for chore or attendant care services as provided in this section, with cost participation, as authorized by RCW 74.08.570.

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

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

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

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

(a) Be eighteen years of age or older.

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

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

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

(e) Be employed.

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

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

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

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

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

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

Percentage of State Median Income (After Deductions)	Percentage of Rate Paid By The Department
Above 0 through 5	95
Above 5 through 10	90
Above 10 through 15	85
Above 15 through 20	80
Above 20 through 25	75
Above 25 through 30	70
Above 30 through 35	65
Above 35 through 40	60

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

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

(a) The applicant previously has been determined "disabled" for the purpose of receiving social security disability insurance (SSDI) or supplemental security income (SSI) or federal aid medical care only (FAMCO), and the department determines that there has been no appreciable improvement in the applicant's disabling condition(s) since that disability determination was made.

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

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

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

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

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

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

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

(i) Child care;

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

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

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

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

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

[Statutory Authority: RCW 74.08.090, 83-21-007 (Order 2028), § 388-15-217, filed 10/6/83; 82-23-056 (Order 1904), § 388-15-217, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-217, filed 8/28/81; 81-03-075 (Order 1589), § 388-15-217, filed 1/21/81.]

**WAC 388-15-220 Homemaker services.** (1) Homemaker services are emergency services to families with children under the age of eighteen residing in their own homes or in special group situations outside their homes which will help families overcome specific and temporary barriers to maintaining, strengthening, and safeguarding their functioning in the home. Such services may not exceed a maximum of: One hundred sixty-eight consecutive hours; or, thirty consecutive days of noncontinuous services not to exceed one hundred sixty-eight hours total.

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

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

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

[Statutory Authority: RCW 74.08.090, 81-17-024 (Order 1689), § 388-15-220, filed 8/12/81; 80-15-003 (Order 1551), § 388-15-220, filed 10/2/80; Order 1238, § 388-15-220, filed 8/31/77; Order 1088, § 388-15-220, filed 1/19/76.]

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

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

(3) Family planning is a federally mandated service offered to all appropriate persons in the aid to families of dependent children program and also to any appropriate individual who meets the state's financial eligibility requirements (including anyone who within three months has been an applicant for or a recipient of AFDC (see WAC 388-15-020 (1)(e)(i))). Services will be provided promptly to all of the foregoing individuals who voluntarily request such services.

[Order 1238, § 388-15-240, filed 8/31/77; Order 1204, § 388-15-240, filed 4/1/77; Order 1147, § 388-15-240, filed 8/26/76; Order 1088, § 388-15-240, filed 1/19/76.]

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

(2) Goals for developmental disabilities for services shall be limited to those specified in WAC 388-15-010 (1)(a), (b), (d), (e). Also see WAC 388-15-010(2).

[Order 1238, § 388-15-300, filed 8/31/77; Order 1088, § 388-15-300, filed 1/19/76.]

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

(2) Goals for developmental disabilities home (aid) services shall be limited to those specified in WAC 388-15-010 (1)(c), (d). Also see WAC 388-15-010(2).

[Order 1238, § 388-15-310, filed 8/31/77; Order 1088, § 388-15-310, filed 1/19/76.]

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

(2) Goals for developmental center services shall be limited to those specified in WAC 388-15-010 (1)(b), (c). Also see WAC 388-15-010(2).

[Order 1238, § 388-15-320, filed 8/31/77; Order 1088, § 388-15-320, filed 1/19/76.]

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

(2) Goals for sheltered workshops shall be limited to those specified in WAC 388-15-010 (1)(a), (b). Also see WAC 388-15-010(2).

[Order 1238, § 388-15-330, filed 8/31/77; Order 1088, § 388-15-330, filed 1/19/76.]

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

(a) Detoxification services

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

(b) Intensive alcoholism inpatient treatment

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

(c) Alcoholism long-term treatment

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

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

[Order 1238, § 388-15-340, filed 8/31/77; Order 1088, § 388-15-340, filed 1/19/76.]

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

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

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

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

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

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

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

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

(2) Goals for refugee assistance shall be limited to the goals specified in WAC 388-15-010 (1)(a) and (b). Also see WAC 388-15-010(2) and chapter 388-55 WAC.

[Statutory Authority: RCW 43.20A.550. 82-02-032 (Order 1742), § 388-15-360, filed 12/31/81; 81-17-027 (Order 1692), § 388-15-360, filed 8/12/81; 78-04-004 (Order 1276), § 388-15-360, filed 3/2/78; Order 1238, § 388-15-360, filed 8/31/77; Order 1204, § 388-15-360, filed 4/1/77; Order 1147, § 388-15-360, filed 8/26/76; Order 1124, § 388-15-360, filed 6/9/76.]

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

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

(a) Are released from a mental hospital, or

(b) Need alternate care to continue to live in the community.

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

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

(5) See also chapter 388-95 WAC.

[Order 1088, § 388-15-400, filed 1/19/76.]

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

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

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

(3) Periodically, but no less frequently than every six months, except that for individuals whose gross monthly income at the time of determination is derived exclusively from pensions or social security benefits or SSI or a combination thereof or in group eligibility where the individuals conditions or characteristics are not apt to change substantially (such as physical disability), redetermination may be made at 12 month intervals.

[Order 1238, § 388-15-500, filed 8/31/77; Order 1088, § 388-15-500, filed 1/19/76.]

**WAC 388-15-548 Residential services.** (1) Residential services are services necessary to secure appropriate residential care for eligible adults. This includes placement and periodic review in adult family homes, congregate care facilities, and nursing homes. When appropriate, the department's nursing care consultants will determine if eligible adults with medical problems are receiving care which meets their medical needs.

(2) Goals for residential services shall be limited to those specified in WAC 388-15-010 (1)(a) through (e). Also see WAC 388-15-010(2) and 388-15-030.

[Statutory Authority: RCW 74.08.044. 86-16-019 (Order 2392), § 388-15-548, filed 7/28/86.]

**WAC 388-15-550 Service delivery.** The services provided under this chapter may be provided by department staff or by purchase of service. Services are purchased by the department at rates set by the department from agencies or facilities determined by the department as providing an acceptable quality of service.

[Order 1238, § 388-15-550, filed 8/31/77; Order 1147, § 388-15-550, filed 8/26/76; Order 1124, § 388-15-550, filed 6/9/76; Order 1088, § 388-15-550, filed 1/19/76.]

**WAC 388-15-551 Adult family home--Authority to purchase care--Standards.** (1) Pursuant to RCW 74.08.043 and 74.08.045, the department is authorized to purchase care from licensed adult family homes.

(2) Minimum standards of care for an adult family home are those required for licensure under chapter 74.15 RCW, RCW 74.08.044, and chapter 388-76 WAC.

[Statutory Authority: RCW 74.08.044, 86-16-019 (Order 2392), § 388-15-551, filed 7/28/86; 79-09-039 (Order 1425), § 388-15-551, filed 8/17/79.]

**WAC 388-15-552 Adult family home--Eligible persons.** (1) To be eligible for state payment for regular adult family home care, a person must be:

(a) Age eighteen or older;

(b) A recipient of:

(i) Supplemental Security Income;

(ii) Continuing general assistance; or

(iii) Title XIX categorically relatable to SSI;

(c) Unable to live alone and/or require training, supervision, or assistance with activities of daily living and/or health-related services, including nursing care if the adult family home licensee is authorized by the licensing authority to provide nursing care; and

(d) Ineligible to be included in the COPES or CAP programs.

(2) A provider payment only may be authorized for adults receiving protective services in an adult family home, notwithstanding subsection (1)(b) of this section, for up to ninety days during any twelve-month period without regard to income, if the care is an integral but subordinate part of the adult protective service plan. Such payment shall be discontinued after ninety days, when the protective services are terminated, or when a regular service plan is adopted, whichever occurs first.

[Statutory Authority: RCW 74.08.044, 86-16-019 (Order 2392), § 388-15-552, filed 7/28/86; 83-21-008 (Order 2029), § 388-15-552, filed 10/6/83; 79-09-039 (Order 1425), § 388-15-552, filed 8/17/79.]

**WAC 388-15-553 Adult family home--Determination of need.** The department, through a comprehensive assessment, in consultation with the eligible adult, shall determine if adult family home care is required. Adult family home services are limited to those allowed under adult family home licensure, chapter 388-76 WAC.

[Statutory Authority: RCW 74.08.044, 86-16-019 (Order 2392), § 388-15-553, filed 7/28/86; 79-09-039 (Order 1425), § 388-15-553, filed 8/17/79.]

**WAC 388-15-554 Adult family home--Placement in facility.** (1) Selection of an adult family home is made

by the eligible adult client, his or her relatives, or others acting on his or her behalf, provided the department determines that the adult family home can provide adequate care and supervision.

(2) The client has a right to choose or refuse adult family home placement. The client's decision shall prevail. In those circumstances where the client is under a guardianship, the guardian shall be consulted to determine the extent of his or her authority. If such authority extends to the placement of the client, the guardian's decision shall prevail.

[Statutory Authority: RCW 74.08.044, 86-16-019 (Order 2392), § 388-15-554, filed 7/28/86; 79-09-039 (Order 1425), § 388-15-554, filed 8/17/79.]

**WAC 388-15-555 Adult family home--Payments--Standards--Procedures.** (1) All nonexempt net income of an eligible adult placed in an adult family home shall first be applied to the adult's clothing, personal maintenance, and necessary incidentals. Any remaining nonexempt income shall be applied to the cost of his or her adult family home care.

(2) See WAC 388-92-025 for computation of available income for SSI or SSI-related recipients. See WAC 388-37-020(4) and 388-37-025 for computation of available income for continuing general assistance recipients.

(3) The continuing general assistance standard for an adult family home resident shall be the adult family home cost standard plus a specified amount for the clothing, personal maintenance and necessary incidentals, as defined in chapter 388-29 WAC.

(4) The department shall pay the adult family home for contracted care, a sum not to exceed rates set forth in the most recent schedule of rates established and published by the department. The sum paid shall be decreased by the amount of the client's participation toward cost of care.

[Statutory Authority: RCW 74.08.044, 86-16-019 (Order 2392), § 388-15-555, filed 7/28/86; 79-09-039 (Order 1425), § 388-15-555, filed 8/17/79.]

**WAC 388-15-560 Congregate care--Definition--Authority to purchase care--Standards.** (1) A congregate care facility is a boarding home licensed under chapter 18.20 RCW and RCW 74.08.044, or a licensed private establishment as defined by chapter 71.12 RCW, which has entered into a congregate care contract with the department.

(2) Pursuant to RCW 74.08.043 and 74.08.045, the department is authorized to purchase, from congregate care facilities as defined in this chapter, personal and special care and supervision for eligible persons, as defined in this chapter, who are in need of such care and supervision.

(3) Minimum standards of care for a congregate care facility are those required for licensure under chapters 18.20 and 71.12 RCW, and chapter 248-16 WAC.

[Statutory Authority: RCW 74.08.044, 86-16-019 (Order 2392), § 388-15-560, filed 7/28/86; 81-01-077 (Order 1579), § 388-15-560, filed 12/17/80; Order 1238, § 388-15-560, filed 8/31/77.]



**WAC 388-15-562 Congregate care--Eligible persons.** (1) To be eligible for state payment for care in a congregate care facility, a person must:

- (a) Be age eighteen or older;
- (b) Be a recipient of:
  - (i) Supplemental Security Income,
  - (ii) Continuing general assistance, or
  - (iii) Title XIX categorically relatable to SSI;
- (c) Be unable to maintain a safe environment in an independent living arrangement or require personal care and supervision, assistance with activities of daily living and/or health-related services;

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

(e) Meet the criteria in subsections (2), (3), (4), (5), or (6) of this section.

(2) For regular program congregate care the person must:

(a) Not require developmental disabilities specialized services as described in chapter 275-36 WAC unless a plan of care is developed to provide specialized services in addition to the regular congregate care services provided;

(b) Be ineligible for the mental health congregate care program as described in subsection (4) of this section unless a plan of care is developed to provide mental health specialized services apart from the regular congregate care services provided;

(c) Not require alcoholism and/or drug treatment as described in subsection (5) and (6) of this section; and

(d) Be ineligible for the COPES or CAP programs;

(3) A provider payment only may be authorized for persons receiving adult protective services in congregate care, notwithstanding subsection (1)(b) of this section, for up to ninety days during any twelve-month period without regard to income, if the care is an integral but subordinate part of the adult protective service plan. Such payment shall be discontinued after ninety days, when the protective services are terminated, or when a regular service plan is adopted, whichever occurs first.

(4) For mental health congregate care, a person must:

(a) Be acutely or chronically mentally ill, or seriously disturbed as defined in WAC 275-56-010. Priority for placement shall be as follows:

(i) Clients housed in state or community psychiatric facilities who no longer require that level of care.

(ii) Clients in imminent jeopardy of psychiatric hospitalization unless an alternative placement is secured.

(iii) Clients with two or more psychiatric hospitalizations in the past two years.

(iv) Other clients meeting the criteria in WAC 275-56-010.

(b) Actively participate in a mental health treatment program according to their individual treatment plan or be on a waiting list to receive such treatment.

(i) Clients shall become ineligible for the mental health rate after sixty days of refusing to participate in mental health treatment.

(ii) Alternative residential placements must be arranged for clients found ineligible because of nonparticipation.

(5) For drug treatment congregate care a person must be judged by a certified drug treatment professional to be in need of drug treatment.

(6) For alcoholism congregate care, a person must be determined by a state-approved, community alcoholism counselor to be in need of treatment.

(7) Placement in a congregate care facility is limited to available DSHS contracted beds.

[Statutory Authority: RCW 74.08.044. 86-16-019 (Order 2392), § 388-15-562, filed 7/28/86; 82-10-064 (Order 1805), § 388-15-562, filed 5/5/82; 81-01-077 (Order 1579), § 388-15-562, filed 12/17/80; Order 1238, § 388-15-562, filed 8/31/77.]

**WAC 388-15-563 Congregate care--Residents of other states.** Benefits of the congregate care program shall not be available to residents of other states who enter the state of Washington for the primary purpose of obtaining congregate care. However, when a person can no longer be considered a resident of another state and/or expresses his/her intention to remain permanently in Washington, his/her eligibility shall be determined as a resident of Washington, see WAC 388-26-055. If there is evidence that the person is maintaining a home in another state, see WAC 388-28-420(4) about sale of resource.

[Statutory Authority: RCW 74.08.044. 81-01-077 (Order 1579), § 388-15-563, filed 12/17/80.]

**WAC 388-15-564 Congregate care--Determination of need.** The department shall determine need for congregate care based on:

(1) A comprehensive assessment, in consultation with the individual; and

(2) Criteria in WAC 388-15-562.

[Statutory Authority: RCW 74.08.044. 86-16-019 (Order 2392), § 388-15-564, filed 7/28/86; Order 1238, § 388-15-564, filed 8/31/77.]

**WAC 388-15-566 Congregate care--Placement in facility.** (1) Selection of a congregate care facility is made by the eligible individual, his or her relatives, or others acting on his or her behalf from facilities with available contracted beds, provided the department determines such congregate care facility can provide adequate care and supervision.

(2) The individual has a right to choose or refuse congregate care placement. The individual's decision shall prevail. In those circumstances where the person is under a guardianship, the guardian shall be consulted to determine the extent of his or her authority. If such authority extends to the placement of the individual, the guardian's directive shall prevail.

[Statutory Authority: RCW 74.08.044. 86-16-019 (Order 2392), § 388-15-566, filed 7/28/86; 81-01-077 (Order 1579), § 388-15-566, filed 12/17/80; Order 1238, § 388-15-566, filed 8/31/77.]

**WAC 388-15-568 Congregate care--Payment--Standards--Procedures.** (1) All nonexempt net income

of an eligible individual placed in a congregate care facility shall first be applied to the individual's clothing, personal maintenance and necessary incidentals. Any remaining nonexempt income shall be applied to the cost of the congregate care.

(2) See WAC 388-92-025 for computation of available income for SSI or SSI-related recipients. See WAC 388-37-020(4) and 388-37-025 for computation of available income for continuing general assistance recipients.

(3) Payment will be limited to the amount approved by the department for the type of care authorized, i.e., regular, mental health, COPEs, or alcoholism and/or drug treatment. There is no specialized congregate care rate for developmentally disabled persons.

(4) The department shall pay for contracted care a sum not to exceed the rates set forth in the most recent schedule of rates established and published by the department. The sum paid shall be decreased by the amount of the client's participation toward cost of care.

(5) The continuing general assistance standard for a congregate care resident shall be the contracted cost standard of the facility plus a specified amount for clothing, personal maintenance and necessary incidentals, as defined in chapter 388-29 WAC.

[Statutory Authority: RCW 74.08.044, 86-16-019 (Order 2392), § 388-15-568, filed 7/28/86; 82-10-064 (Order 1805), § 388-15-568, filed 5/5/82; Order 1238, § 388-15-568, filed 8/31/77.]

#### **WAC 388-15-570 Family reconciliation services.**

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

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

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

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

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

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

(5) Services are provided as follows:

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

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

(c) These services are not provided for chronic or long-term multiproblem situations, custody and marital disputes, cases receiving counseling services from other agencies, child abuse and neglect cases, foster family or group care services in need of follow-up services and post adoption cases still under supervision of an agency.

(6) Goals for family reconciliation services shall be limited to those specified in WAC 388-15-010 (1)(c). Also see WAC 388-15-010(2).

[Statutory Authority: RCW 74.08.090, 82-01-040 (Order 1732), § 388-15-570, filed 12/16/81; 81-20-063 (Order 1708), § 388-15-570, filed 10/5/81. Statutory Authority: RCW 74.08.090 and 1979 c 155, 79-10-026 (Order 1431), § 388-15-570, filed 9/10/79. Statutory Authority: RCW 74.08.090, 78-09-098 (Order 1335), § 388-15-570, filed 9/1/78; Order 1238, § 388-15-570, filed 8/31/77.]

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

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

(3) Goals for support services shall be limited to those specified in WAC 388-15-010 (1)(a), (b), (d). Also see WAC 388-15-010(2).

[Order 1238, § 388-15-580, filed 8/31/77.]

#### **WAC 388-15-600 Community options program entry system (COPEs)—Purpose—Legal basis.**

(1) The purpose of the community options program entry system (COPEs) is to offer the choice of either institutional or specific Medicaid waiver home and community-based services to persons limited in number as specified by the department who are identified as eligible for nursing home care and likely to require institutionalization in the absence of the waiver services.

(2) COPEs is a Medicaid program authorized under subsection 1915(c) of the Social Security Act, as approved by the secretary, Department of Health and Human Services.

(3) RCW 74.08.043 and 74.08.045 authorize the department to purchase personal and special care. RCW 74.08.390 permits the department to conduct demonstration programs and waive specific statutory requirements.

[Statutory Authority: RCW 74.08.090. 86-11-024 (Order 2377), § 388-15-600, filed 5/14/86; 83-08-024 (Order 1954), § 388-15-600, filed 3/30/83.]

**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 the federal Supplemental Security Income (SSI) benefit level excluding the state supplement (see WAC 388-95-320 (1)(a)); and

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

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

(d) Will likely require institutionalization in the absence of home and community-based waiver services; and

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

(f) 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 state-wide nursing home rate.

(2) Participation in COPES is the choice of the otherwise eligible recipient.

[Statutory Authority: RCW 74.08.090. 86-11-024 (Order 2377), § 388-15-610, filed 5/14/86. 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 feasible 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, and laundry 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 cost computation.

(4) Applicants whose incomes exceed the cost for services are not eligible for COPES.

[Statutory Authority: RCW 74.08.090. 86-11-024 (Order 2377), § 388-15-620, filed 5/14/86; 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 care providers meeting or exceeding minimum performance standards for personal care of a recipient residing in his or her established residence. The payment rate shall be at least the federal minimum hourly wage rate to individual and independent providers, but shall not exceed 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, 86-11-024 (Order 2377), § 388-15-630, filed 5/14/86; 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 388-17 WAC

#### SENIOR CITIZENS SERVICES PROGRAM

##### WAC

388-17-010	Legal basis for senior citizens services program.
388-17-020	Definitions.
388-17-100	Rights and responsibilities of applicants and recipients.
388-17-120	Eligibility for senior citizens services—Application.
388-17-160	Income and resources.
388-17-180	Fee schedule.

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

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

**WAC 388-17-010 Legal basis for senior citizens services program.** The following rules are adopted under the authority of chapter 74.38 RCW.

[Statutory Authority: RCW 74.38.030, 78-05-077 (Order 1292), § 388-17-010, filed 5/1/78; Order 1174, § 388-17-010, filed 11/30/76.]

**WAC 388-17-020 Definitions.** (1) All terms used in this chapter which are not defined herein shall have the same meaning as indicated in chapter 74.38 RCW.

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

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

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

(b) An applicant or recipient which provides the majority of the support for a person(s) residing with the applicant or recipient shall be considered a member of a

household which includes the applicant or recipient and the dependent person(s).

[Statutory Authority: RCW 74.38.030, 78-05-077 (Order 1292), § 388-17-020, filed 5/1/78; Order 1174, § 388-17-020, filed 11/30/76.]

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

(a) Any individual wishing to do so shall have the right to apply for the senior citizens services program and have his or her eligibility determined within ten days. If an adverse decision is made regarding eligibility, the applicant will be provided written notice. The notice of eligibility shall include a statement of the reasons upon which an unfavorable decision is based and a statement of the individual's right to a hearing, and a statement of the individual's right to representation at the hearing by a friend, relative, or other representative.

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

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

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

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

(f) Each applicant for services for which a fee may be charged (all services except nutrition, health screening, information and assistance, and transportation) shall be fully informed in writing of his or her rights and responsibilities in connection with the senior citizens services program.

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

(a) Each applicant for services for which a fee may be charged shall provide complete and accurate information on an application form provided by the department and

cooperate in establishing his or her eligibility for services.

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

(c) Each recipient of services for which a fee may be charged shall promptly report any changes in income or resources in writing affecting his or her eligibility or amount of fees to be paid for services.

[Statutory Authority: RCW 74.38.030. 83-13-070 (Order 1970), § 388-17-100, filed 6/16/83; 78-05-077 (Order 1292), § 388-17-100, filed 5/1/78; Order 1174, § 388-17-100, filed 11/30/76.]

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

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

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

(4) Each applicant for services for which a fee may be charged shall be given a notice of eligibility.

[Statutory Authority: RCW 74.38.030. 78-05-077 (Order 1292), § 388-17-120, filed 5/1/78; Order 1174, § 388-17-120, filed 11/30/76.]

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

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

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

(ii) The value of the U.S. Department of Agriculture donated foods (surplus commodities).

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

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

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

(vi) Garden produce, livestock, and poultry used for home consumption.

(vii) Any real property held in trust for an individual Indian or Indian tribe.

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

(2) Effective July, 1983, the income tables for forty percent of median income are:

Number In Family Unit	Monthly Income	Annual Income
1	\$ 466	\$ 5,592
2	610	7,320
3	753	9,036
4	897	10,764
5	1,041	12,492
6	1,184	14,208

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

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

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

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

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

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

(iii) Personal property of great sentimental value.

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

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

(vi) Cash surrender value of life insurance.

(b) The total value of all other resources including cash, marketable securities, and real or personal property shall not exceed ten thousand dollars for a single person or fifteen thousand dollars for a family of two. This maximum shall be increased by one thousand dollars for each additional member of the household.

[Statutory Authority: RCW 74.38.030. 83-13-070 (Order 1970), § 388-17-160, filed 6/16/83; 80-02-135 (Order 1485), § 388-17-160, filed 2/1/80; 78-05-077 (Order 1292), § 388-17-160, filed 5/1/78; Order 1174, § 388-17-160, filed 11/30/76.]

**WAC 388-17-180 Fee schedule.** (1) Eligible persons whose income and/or resources exceed the limits specified in WAC 388-17-160 for free services shall be responsible for payment of the total, or a percentage, of the cost for each service provided as determined by the fee schedule published in DSHS Form 14-155(X) 7/82 incorporated by reference herein. For each size household, the percentage of the cost of the service for which

the department will make payment is based on the following formula:

$$\frac{100\% \text{ State Median Income (SMI)} - \text{Household Income}}{100\% \text{ SMI} - 40\% \text{ SMI}} \times 100$$

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

(3) Fees paid shall not exceed the cost of services provided.

[Statutory Authority: RCW 74.38.030, 83-13-070 (Order 1970), § 388-17-180, filed 6/16/83; 78-05-077 (Order 1292), § 388-17-180, filed 5/1/78; Order 1174, § 388-17-180, filed 11/30/76.]

### Chapter 388-18 WAC

#### LONG-TERM CARE OMBUDSMAN PROGRAM

##### WAC

388-18-010	Purpose.
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**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.

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(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.

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(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 388-20 WAC EXCEPTION TO RULE**

#### **WAC**

388-20-010 Rules—Applicability.

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

388-20-020 Rules—Procedures for exceptions. [Order 773, § 388-20-020, filed 2/16/73; Order 686, § 388-20-020, filed 5/25/72; Order 528, § 388-20-020, filed 3/31/71, effective 5/1/71; Order 348, § 388-20-020, filed 5/28/69; Order 273, § 388-20-020, filed 1/29/68; Regulation 4.00 (part), filed 12/31/65, effective 2/1/66; Regulation 4.00, filed 1/24/64.] Repealed by 83-14-028 (Order 1976), filed 6/30/83. Statutory Authority: RCW 74.08.090.

**WAC 388-20-010 Rules—Applicability.** (1) The rules for determining eligibility and amount of payment are based on law and are designed to permit the granting of necessary assistance considering the applicant's requirements, resources and ability to help himself or herself. The purpose is to assure the meeting of need on a modest, reasonable basis. The result of granting assistance according to these rules should be to ease the conditions individuals would face without such assistance



and to increase opportunities for functioning effectively under arrangements adapted to the individual's particular circumstances.

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

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

(4) Exception decisions are not subject to the fair hearing procedures of chapter 388-08 WAC.

[Statutory Authority: RCW 74.08.090, 83-14-028 (Order 1976), § 388-20-010, filed 6/30/83; Order 773, § 388-20-010, filed 2/16/73; Order 528, § 388-20-010, filed 3/31/71, effective 5/1/71; Order 348, § 388-20-010, filed 5/28/69; Regulation 4.00 (part), filed 12/31/65, effective 2/1/66; Regulation 4.00, filed 1/24/64.]

#### Chapter 388-22 WAC

#### DETERMINING AND VERIFYING ELIGIBILITY-- DEFINITIONS

##### WAC

388-22-030 Definitions.

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

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

**WAC 388-22-030 Definitions.** This section is a compilation of the definitions of words and phrases extensively used in the department's rules concerning the financial aid programs. Their collection in one section tends to ensure a more exact understanding of the word or concept and to avoid repetition of the definition. Related definitions have been grouped under the key word.

For definitions of terms used in the medical assistance--Title XIX and medical services (fully state financed) programs, see chapter 388-80 WAC. For definitions of terms used in the food stamp program see chapter 388-54 WAC.

(1) "Adequate consideration" means that the reasonable value of the goods or services received in exchange for the transferred property approximates the reasonable value of the property transferred.

(2) "Adult" means a person eighteen years of age or older.

(3) "Apartment" means two or more rooms with cooking and sleeping facilities which is a unit of a larger structure.

(4) "Applicant" shall mean any person or members of a family unit by whom or for whom a request for assistance has been made.

(5) "Application" means a written request for financial assistance or a written or oral request for medical or social service provided by the department of social and health services made by a person in his/her own behalf or in behalf of another person.

(6) "Assistance unit" means a person or members of a family unit who are eligible to be included in a single categorical grant.

(7) "Authorization" means an official approval of a departmental action:

(a) "Authorization date" means the date the prescribed form authorizing assistance for a new, reopened or reinstated case is signed.

(b) "Authorization of grant" means attesting the applicant's eligibility for assistance in an amount as determined by his circumstances and department standards and giving authority to make payment accordingly.

(8) "Automobile" means a motorized vehicle.

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

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

(11) "CFR" means the code of federal regulations and is a codification of the general and permanent rules published in the federal register by the executive departments and agencies of the federal government.

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

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

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

(15) "Chore services" are those tasks specifically related to household, yard and/or personal care which assist a person in his/her own home.

(16) "Client" means an applicant or recipient of financial, medical and/or social services.

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

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

(19) "Disaster assistance" means a financial grant or temporary housing awarded eligible victims of a gubernatorially proclaimed and/or presidentially declared emergency or major disaster.

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

(21) "Encumbrances" means any mortgage, claim, lien, charge or other legally enforceable liability, such as past due taxes, attaching to and binding upon property.

(22) "Entitlement" means any form of benefit, such as compensation, insurance, pension retirement, military, bonus, allotment, allowance payable in cash or its equivalent in which an applicant/recipient may have a claim or interests recognized by law.

(23) "Equity" means quick-sale value less legally enforceable encumbrances.

(24) "Estate" means all real and personal property owned by a person as of the date of his death.

(25) "Exception to policy" means approval by the secretary's designee to waive a rule in Title 388 WAC for a specific client who is experiencing an undue hardship as a result of that rule. Such a waiver may not be contrary to law.

(26) "Fair hearing" means an administrative proceeding by which the department hears and decides the appeal of an applicant/recipient from an action or decision of the department.

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

(28) "Food stamp program." The program administered by the department in cooperation with the U.S. Department of Agriculture under which eligible households are certified to receive food coupons to be used to buy food.

(29) "Fraud."

(a) For financial aid programs, fraud means a deliberate, intentional and willful act with the specific purpose of deceiving the department with respect to any material fact, condition or circumstance affecting eligibility or need;

(b) For definition of "food stamp fraud," see chapter 388-54 WAC.

(30) "Funeral" means the proper preparation and care of the remains of a deceased person with needed facilities and appropriate memorial services including necessary costs of a lot or cremation and all services related to the interment and the customary memorial marking of a grave.

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

(32) "General assistance-noncontinuing" (GAN) is temporary assistance for persons who are not eligible for or receiving federal aid assistance.

(33) "Grant" means an entitlement awarded to an applicant/recipient and paid in the form of a state warrant redeemable at par.

(a) "Grant adjustment" means postpayment of the difference between the amount for which the recipient was eligible for a given period and the amount already paid.

(b) "Initial grant" means the payment due from date of eligibility to the payment date of the first regular grant.

(c) "Minimum grant" means one dollar, unless a court decision requires payment of a smaller amount.

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

(e) "Regular grant" means the monthly prepayment of assistance on a continuing basis.

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

(35) "Homemaker services" are services provided by an employee of the agency to individuals and families in their own homes or in special group situations outside their homes which will help individuals overcome specific and temporary barriers to maintaining, strengthening and safeguarding their functioning in the home.

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

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

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

(a) "Cash income" means income in the form of money, bank notes, checks or any other readily liquidated form paid and received as money.

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

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

(d) "Income-in-kind" means income in the form of a requirement which contributes appreciably toward meeting the need for the requirement. Income-in-kind shall be evaluated in terms of its cash equivalent in accordance with WAC 388-28-600.

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

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

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

(39) "Incapacity" (see WAC 388-24-060).

(40) "Inquiry" means a request for information about the department and/or the services offered by the department.

(41) "Institution" means a treatment facility within which an individual receives professional care specific to that facility:

(a) "Institution-medical" provides medical, nursing or convalescent care by professional personnel.

(b) "Institution-private" is operated by nongovernmental authority by private interests.

(c) "Institution-public" is supported by public funds and administered by a governmental agency.

(d) "Institutional services" are those items and services furnished to individuals in a particular institution.

(e) "Nursing home" means a public facility or private licensed facility certified by the department to provide skilled nursing and/or intermediate care.

(42) "Joint account" means a numbered account within a financial institution which is registered to two or more parties and is accessible to each party for withdrawal of a cash resource (see WAC 388-28-430 (2)(b)(ii)).

(43) "Living in own home" means a living arrangement not involving boarding and rooming, or care in a hospital, nursing home or other institution.

(44) "Marketable securities" means stocks, bonds, mortgages, and all other forms of negotiable securities.

(45) "Minor" or "minor child" means a person under eighteen years of age.

(46) "Need" is the difference between the applicant's or recipient's financial requirements for the assistance unit as measured by the standards of the department and the value of all nonexempt resources and nonexempt net income received by or available to the assistance unit.

(47) "Need under normal conditions of living" means the Washington state gross median income adjusted for family size as promulgated by the secretary of HEW, under the authority granted by Title XX of the Social Security Act minus other income during a period of time when not receiving public assistance.

(48) "Overpayment" means any assistance paid to a person (assistance unit) who is not eligible or assistance paid to an eligible person (assistance unit) in excess of need.

(49) "Payee" means the person in whose name a warrant or check is issued.

(50) "Permanent and total disability" means that the individual has some permanent physical/mental impairment disease or loss that substantially precludes him/her from engaging in a useful occupation within his/her competence to perform such as holding a substantially gainful job or homemaking (see WAC 388-93-025).

(51) "Property" means all resources and/or income possessed by an applicant or a recipient.

(a) "Personal property" means any form of property which is not real property.

(b) "Real property" is land, buildings thereon and fixtures permanently attached to such buildings. Growing crops are included. Any structure used as a dwelling shall be considered as real property.

(c) "Transfer of property" means a conveyance of title to, or any interest in, property from one party to another through a bill of sale, deed, or any other instrument conveying the interest in property.

(d) "Used and useful property" means property which currently serves a practical purpose for an applicant/recipient.

(52) "Protective payment" means a cash public assistance payment to an individual in behalf of an eligible

recipient who, without good cause, refuses to cooperate with the office of support enforcement; who is certified to the work incentive (WIN) program, and refuses to participate in it; or who refuses to accept a bona fide offer of employment; or who demonstrates an inability to manage his/her grant funds, or the mismanagement of a caretaker relative's grant funds is such that the funds have not been nor are they currently being used in the best interest of the child.

(53) "Psychiatric facility" means an institution which is legally qualified to administer psychiatric inpatient treatment.

(54) "Public assistance" means public aid to persons in need thereof for any cause including services, medical care, assistance grants, disbursing orders, work relief, general assistance and federal-aid assistance.

(55) "Recipient" means any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(56) "Reinstate" means an authorization to resume payment of a grant from the category in which payment was previously suspended.

(57) "Requirement" means an item of maintenance or a service recognized by the department as essential to the welfare of an individual.

(a) "Additional requirement" means a requirement which is essential for some clients under specified conditions. See WAC 388-29-150 through 388-29-270.

(b) "Basic requirements" means the needs essential to all persons — food, clothing, personal maintenance and necessary incidentals, shelter and household maintenance.

(58) "Resource" means any asset, tangible or intangible, owned by or available to an applicant when he/she applies for assistance which can be applied toward meeting financial need, either directly or by conversion into money or its equivalent. Any property obtained on or after the first of the month within which eligibility is determined is called "income," except for nonrecurring lump sum payments as specified in WAC 388-28-440.

(a) "Exempt resource" is a resource which by law or rule of the department does not make the owner ineligible, nor is its value used in computing financial need.

(b) "Nonexempt resource" means a resource which is not exempt by law or policy of the department and the value of which is used to determine financial need.

(59) "Restitution" means repayment to the state of assistance paid contrary to law.

(60) "Separate property" means real or personal property which was acquired by either spouse before marriage, or as a result of gift or inheritance, or was acquired and paid for entirely out of income from separate property.

(61) "Statements in support of application" means any forms or documents required under department regulations.

(62) "Suspension" means a temporary discontinuance of a grant payment.

(63) "Terminate" means discontinuance of payment or termination of suspension status.

(64) "Transfer" means reassignment of a case record from one CSO to another which includes all administrative functions necessary to recompute and adjust a grant in accordance with a recipient's permanent change of residence.

(65) "Unmarried parents" means a man and a woman not legally married who are the natural parents of the same child.

(66) "Value" means the worth of an item in money or goods at a certain time.

(a) "Ceiling value" means the limitation established by the department on the gross market value of nonexempt property.

(b) "Fair market value" means the price at which a seller willing, but not required to sell, might sell to a purchaser, willing but not required to purchase.

(c) "Quick-sale value" or "forced-sale value" is the value at which property can be converted into cash almost immediately, and without waiting for "the best offer."

(67) "Vendor payment" means an authorized payment to an individual, corporation or agency for goods furnished or services rendered to an individual eligible for public assistance.

(68) "Vocational training" means an organized curriculum in a school or training unit or an organized training program under recognized sponsorship with a specific vocational training objective.

(69) "Warrant" means the state treasurer's warrant issued in payment of a grant.

(70) "Warrant register" means the list(s) of warrants issued specifying payee's name, amount of payment, warrant number, and for each AFDC payment of the number of matchable persons whose need is being met by the grant.

(a) "Regular warrant register" means the list of regular grants paid.

(b) "Supplemental warrant register" means the list of initial, adjusting and one-time grants paid.

(71) "Work incentive program" or "WIN" means a program authorized by the Social Security Act to facilitate the placement of AFDC recipients in the work force through employment or employment training incentive positions. It is jointly administered by the department of social and health services (DSHS) and the department of employment security (DES).

(a) "Registration" means the process whereby an AFDC applicant/recipient signs a completed registration card.

(b) "Certification" means a written statement by DSHS to DES that requested self-support services are provided or arranged for a specific participant and that the individual is ready for employment or training, or that no self-support services are needed and that the individual is at the time ready for employment and training.

(c) "Deregistration" means the removal of an individual from the WIN program upon the administrative decision of DES.

filed 9/18/78; Order 1131, § 388-22-030, filed 7/8/76; Order 1058, § 388-22-030, filed 10/1/75; Order 745, § 388-22-030, filed 12/7/72; Order 648, § 388-22-030, filed 2/9/72; Order 617, § 388-22-030, filed 10/27/71; Order 529, § 388-22-030, filed 3/31/71, effective 5/1/71; Order 353, § 388-22-030, filed 5/29/69; Regulation 5.30, filed 6/14/66; Regulation 5.30, filed 1/24/64.]

### Chapter 388-24 WAC

#### AID TO FAMILIES WITH DEPENDENT CHILDREN--ELIGIBILITY

WAC	
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388-24-255	Consolidated emergency assistance program (CEAP)--Financial need and benefit amounts.
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[Statutory Authority: RCW 74.08.090, 80-09-021 (Order 1521), § 388-22-030, filed 7/9/80; 78-10-036 (Order 1338), § 388-22-030,

- 388—24—270 Consolidated emergency assistance program (CEAP)—Grant standards.  
 388—24—276 Application.  
 388—24—550 Assistance to minor child.

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

- 388—24—005 Organization of chapter. [Regulation 6.00, filed 12/21/64, effective 2/1/65; Regulation 6.00, filed 1/24/64.] Repealed by Order 530, filed 3/31/71, effective 5/1/71.
- 388—24—010 Aid to blind—Summary of eligibility conditions. [Order 618, § 388—24—010, filed 10/27/71; Order 530, § 388—24—010, filed 3/31/71, effective 5/1/71; Regulation 6.11, filed 6/30/67; Regulation 6.11, filed 6/3/65, 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388—24—015 Aid to blind—Blindness defined. [Order 530, § 388—24—015, filed 3/31/71, effective 5/1/71; Regulation 6.121, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388—24—020 Aid to blind—Publicly soliciting alms defined. [Order 530, § 388—24—020, filed 3/31/71, effective 5/1/71; Regulation 6.122, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388—24—025 Aid to blind—Determining blindness. [Order 530, § 388—24—025, filed 3/31/71, effective 5/1/71; Regulation 6.13, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388—24—030 Factors—Authorization procedure for determining blindness. [Regulation 6.131, filed 1/24/64.] Repealed by Order 530, filed 3/31/71, effective 5/1/71.
- 388—24—032 Factors—Services. [Order 530, § 388—24—032, filed 3/31/71, effective 5/1/71.] Repealed by Order 917, filed 3/14/74.
- 388—24—045 Aid to families with dependent children—Sub-categories of AFDC. [Order 441, § 388—24—045, filed 4/15/70; Order 365, § 388—24—045, filed 7/9/69; Regulation 6.211, filed 8/29/66; Regulation 6.211, filed 12/31/65.] Repealed by Order 530, filed 3/31/71, effective 5/1/71.
- 388—24—071 Aid to families with dependent children—Termination of deprivation. [Order 730, § 388—24—071, filed 10/27/72.] Repealed by Order 923, filed 4/15/74.
- 388—24—075 Aid to families with dependent children—regular—Multiple deprivation factors. [Statutory Authority: RCW 43.20A.550. 79—11—081 (Order 1444), § 388—24—075, filed 10/23/79. Statutory Authority: RCW 74.08.090. 78—12—027 (Order 1357), § 388—24—075, filed 11/15/78; Order 597, § 388—24—075, filed 9/1/71; Order 530, § 388—24—075, filed 3/31/71, effective 5/1/71; Order 496, § 388—24—075, filed 11/25/70, effective 1/1/71; Regulation 6.2214, filed 10/13/66, effective 11/13/66; Regulation 6.2214, filed 8/29/66; Regulation 6.2214, filed 12/31/65.] Repealed by 81—10—012 (Order 1644), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388—24—080 Aid to families with dependent children—regular—Employed parent. [Order 597, § 388—24—080, filed 9/1/71; Order 530, § 388—24—080, filed 3/31/71, effective 5/1/71; Order 447, § 388—24—080, filed 5/14/70, effective 6/15/70; Regulation 6.222, filed 8/29/66; Regulation 6.222, filed 12/31/65, 1/24/64.] Repealed by 79—11—081 (Order 1444), filed 10/23/79. Statutory Authority: RCW 43.20A.550.
- 388—24—095 Eligibility conditions applicable to AFDC—Use of resources for employment or training—Unemployed employable and unemployable person defined. [Order 748, § 388—24—095, filed 12/7/72; Order 609, § 388—24—095, filed 9/22/71; Order 530, § 388—24—095, filed 3/31/71, effective 5/1/71; Order 496, § 388—24—095, filed 11/25/70, effective 1/1/71; Order 447, § 388—24—095, filed 5/14/70, effective 6/15/70; Order 319, § 388—24—095, filed 11/27/68; Emergency Order 305, § 388—24—095, filed 9/20/68; Regulation 6.2311, filed 8/29/66 and 12/31/65.] Repealed by Order 829, filed 7/26/73.
- 388—24—097 Full-time employment. [Order 447, § 388—24—097, filed 5/14/70, effective 6/15/70.] Repealed by Order 496, filed 11/25/70, effective 1/1/71 and Order 530, filed 3/31/71, effective 5/1/71.
- 388—24—100 Eligibility factors applicable to aid to dependent children—regular and aid to dependent children—employable—Employable person in or not in labor force. [Regulation 6.2312, filed 8/29/66; Regulation 6.2312, filed 12/31/65.] Repealed by Order 319, filed 11/27/68 and Emergency Order 305, filed 9/20/68.
- 388—24—105 Eligibility factors applicable to aid to dependent children—regular and aid to dependent children—employable—Registration of unemployed person in the labor force with state employment service. [Regulation 6.2313, filed 8/29/66; Regulation 6.2313, filed 12/31/65.] Repealed by Order 319, filed 11/27/68 and Emergency Order 305, filed 9/20/68.
- 388—24—110 Eligibility factors applicable to aid to dependent children—regular and aid to dependent children—employable—Verification of unemployment compensation status. [Regulation 6.2314, filed 8/29/66; Regulation 6.2314, filed 12/31/65.] Repealed by Order 319, filed 11/27/68 and Emergency Order 305, filed 9/20/68.
- 388—24—115 Eligibility factors applicable to aid to dependent children—regular and aid to dependent children—employable—Acceptance of available employment. [Regulation 6.2315, filed 8/29/66; Regulation 6.2315, filed 12/31/65.] Repealed by Order 319, filed 11/27/68 and Emergency Order 305, filed 9/20/68.
- 388—24—120 Eligibility factors applicable to aid to dependent children—regular and aid to dependent children—employable—Referral for other services. [Regulation 6.2316, filed 8/29/66; Regulation 6.2316, filed 12/31/65.] Repealed by Order 319, filed 11/27/68 and Emergency Order 305, filed 9/20/68.
- 388—24—130 Living in home of relative of specified degree—Financial need. [Regulation 6.233, filed 8/29/66; Regulation 6.233, filed 1/24/64.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388—24—135 Aid to families with dependent children—Employable parent—Summary of eligibility conditions. [Statutory Authority: RCW 74.08.090. 80—14—014 (Order 1546), § 388—24—135, filed 9/23/80. Statutory Authority: RCW 43.20A.550. 79—11—081 (Order 1444), § 388—24—135, filed 10/23/79. Statutory Authority: RCW 74.08.090. 79—03—013 (Order 1368), § 388—24—135, filed 2/15/79; Order 1189, § 388—24—135, filed 2/18/77; Order 1101, § 388—24—135, filed 2/25/76; Order 1051, § 388—24—135, filed 9/10/75; Order 748, § 388—24—135, filed 12/7/72; Order 638, § 388—24—135, filed 1/28/72; Order 597, § 388—24—135, filed 9/1/71; Order 530, § 388—24—135, filed 3/31/71, effective 5/1/71; Order 338, § 388—24—135, filed 2/14/69; Order 319, § 388—24—135, filed 11/27/68; Emergency Order 305, § 388—24—135, filed 9/20/68; Order 291, § 388—24—135, filed 6/12/68; Emergency Order 287, filed 5/1/68; Regulations 6.24 and 6.241, filed 8/29/66; Regulations 6.24 and 6.241, filed 12/31/65, 7/13/65, 6/17/64 and 1/24/64.] Repealed by 81—10—012 (Order 1644), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388—24—140 Living in home of relative of specified degree—Deprivation due to unemployment of parent. [Regulation 6.242, filed 8/29/66; Regulation 6.242, filed 12/31/65.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388—24—145 Living in home of relative of specified degree—Employability of parent. [Regulation 6.2421, filed

- 8/29/66; Regulation 6.2421, filed 12/31/65.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-150 Living in home of relative of specified degree—Unemployed parent. [Regulation 6.2422, filed 8/29/66; Regulation 6.2422, filed 12/31/65.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-155 Parent in the labor force. [Regulation 6.2423, filed 8/29/66; Regulation 6.2423, filed 12/31/65.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-160 Aid to dependent child of unemployed parent—Financial need. [Regulation 6.243, filed 8/29/66; Regulation 6.243, filed 12/31/65.] Repealed by Order 356, filed 5/29/69.
- 388-24-180 Aid to families with dependent children—Children eighteen, nineteen, twenty years of age. [Order 530, § 388-24-180, filed 3/31/71, effective 5/1/71; Regulation 6.26, filed 7/13/65; Regulation 6.26, filed 1/24/64.] Repealed by Order 618, filed 10/27/71.
- 388-24-195 Coordination of public assistance and child welfare services—Transfer of cases involving services to children. [Regulation 6.272, filed 1/24/64.] Repealed by Order 530, filed 3/31/71, effective 5/1/71.
- 388-24-205 Aid to dependent children—Foster family care. [This is reference section only.] Repealed by Order 917, filed 3/14/74.
- 388-24-230 Aid to families with dependent children—foster care—Authorization and payment. [Order 291, § 388-24-230, filed 6/12/68; Regulation 6.286, filed 1/24/64.] Repealed by Order 469, filed 8/19/70.
- 388-24-240 Aid to families with dependent children—foster care—Assignment of cases. [Order 291, § 388-24-240, filed 6/12/68; Regulation 6.288, filed 1/24/64.] Repealed by Order 469, filed 8/19/70.
- 388-24-275 Emergency assistance to needy families with children—Aliens. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-24-275, filed 9/18/78; Order 1004, § 388-24-275, filed 1/24/75.] Repealed by 80-16-039 (Order 1565), filed 11/3/80. Statutory Authority: RCW 74.08.090.
- 388-24-360 Disability assistance. [Order 783, § 388-24-360, filed 3/16/73; Order 563, § 388-24-360, filed 5/19/71; Order 530, § 388-24-360, filed 3/31/71, effective 5/1/71; Regulation 6.30, filed 6/17/64; Regulation 6.30, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-365 Disability assistance—Summary of eligibility conditions. [Order 563, § 388-24-365, filed 5/19/71; Order 530, § 388-24-365, filed 3/31/71, effective 5/1/71; Order 365, § 388-24-365, filed 7/9/69; Regulation 6.31, filed 6/17/64; Regulation 6.31, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-370 Disability assistance—Permanent and total disability. [Order 563, § 388-24-370, filed 5/19/71; Order 530, § 388-24-370, filed 3/31/71, effective 5/1/71; Regulation 6.32, filed 6/17/64; Regulations 6.32, 6.321, et. seq., filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-375 Disability assistance—Application. [Order 563, § 388-24-375, filed 5/19/71.] Repealed by Order 917, filed 3/16/74.
- 388-24-380 Disability assistance—Local office responsibility. [Order 530, § 388-24-380, filed 3/31/71, effective 5/1/71; Regulation 6.33, filed 6/17/64; Regulation 6.33, filed 1/24/64.] Repealed by Order 563, filed 5/19/71.
- 388-24-382 Disability assistance—Periodic review of permanent and total disability. [Order 563, § 388-24-382, filed 5/19/71.] Repealed by Order 917, filed 3/14/74.
- 388-24-384 Disability assistance—Reapplication. [Order 563, § 388-24-384, filed 5/19/71.] Repealed by Order 917, filed 3/14/74.
- 388-24-390 Medical division representative's responsibility. [Regulation 6.34, filed 6/17/64; Regulation 6.343, filed 1/24/64.] Repealed by Order 530, filed 3/31/71, effective 5/1/71. Repealed by Order 563, filed 5/19/71.
- 388-24-392 Medical division representatives responsibility—State office review team supervisory function. [Order 563, § 388-24-392, filed 5/19/71.] Repealed by Order 917, filed 3/14/74.
- 388-24-400 Medical division representatives responsibility—Area review team—Composition—Function. [Order 609, § 388-24-400, filed 9/22/71; Order 563, § 388-24-400, filed 5/19/71; Order 530, § 388-24-400, filed 3/31/71, effective 5/1/71; Regulation 6.35, filed 6/17/64; Regulation 6.341, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-405 State office responsibility—Division of medical care. [Regulation 6.36, filed 6/17/64.] Repealed by Order 530, filed 3/31/71, effective 5/1/71.
- 388-24-410 State office responsibility—Refusal to accept available and recommended medical treatment. [Order 563, § 388-24-410, filed 5/19/71; Order 530, § 388-24-410, filed 3/31/71, effective 5/1/71; Regulation 6.37, filed 6/17/64, effective 8/1/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-455 Old age assistance—Summary of eligibility conditions. [Order 530, § 388-24-455, filed 3/31/71, effective 5/1/71; Order 365, § 388-24-455, filed 7/9/69; Order 247, § 388-24-455, filed 11/1/67; Regulations 6.40 and 6.41, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-475 Continuing general assistance—Summary of eligibility conditions. [Order 609, § 388-24-475, filed 9/22/71; Order 530, § 388-24-475, filed 3/31/71, effective 5/1/71; Order 365, § 388-24-475, filed 7/9/69; Order 344, § 388-24-475, filed 4/16/69; Order 291, § 388-24-475, filed 6/12/68; Emergency Order 287, filed 5/1/68; Order 247, § 388-24-475, filed 11/1/67; Regulation 6.51, filed 12/31/65; Regulation 6.51 filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-24-485 Continuing general assistance—Factors. [Regulation 6.52, filed 1/24/64.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-490 Continuing general assistance—Limitations. [Order 247, § 388-24-490, filed 11/1/67; Regulation 6.521, filed 1/24/64.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-495 Continuing general assistance—Unemployability. [Order 609, § 388-24-495, filed 9/22/71; Order 530, § 388-24-495, filed 3/31/71, effective 5/1/71; Order 247, § 388-24-495, 11/1/67; Regulation 6.522, filed 12/31/65; Regulation 6.522, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-24-500 Continuing general assistance—Refusal to accept available and recommended medical treatment. [Order 530, § 388-24-500, filed 3/31/71, effective 5/1/71; Order 247, § 388-24-500, filed 11/1/67; Regulation 6.523, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-24-505 Continuing general assistance—Standards for requirements. [Order 530, § 388-24-505, filed 3/31/71, effective 5/1/71; Regulation 6.524, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-24-510 Continuing general assistance—General assistance—unemployable person for federal aid recipient from another state. [Regulation 6.525, filed 1/24/64.] Repealed by Order 280, filed 2/14/68.

**WAC 388-24-040 Aid to families with dependent children—Summary of eligibility conditions.** 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 388-24-042 Aid to families with dependent children--Eligibility of strikers.** Effective August 23, 1983;

(1) Eligibility for AFDC or refugee assistance does not exist when any parent or stepparent with whom the child lives is, on the last day of the month, participating in a strike.

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

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

(4) The term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

[Statutory Authority: RCW 74.08.090. 83-22-066 (Order 2033), § 388-24-042, filed 11/2/83; 82-09-034 (Order 1792), § 388-24-042, filed 4/14/82; 82-01-009 (Order 1728), § 388-24-042, filed 12/4/81.]

**WAC 388-24-044 Mandatory monthly reporting.**

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

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

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

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

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

(7) Failure to return a completed report by the fifth day of the month shall result in termination except as provided in subsection (9) of this section.

(8) The department shall give advance and adequate notice to the recipient who does not submit a completed monthly report timely as defined in subsection (7) of this section.

(9) 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.

(10) 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.

(11) Requirements in subsections (2), (3), (4), (5), and (6) of this section are effective with monthly reports generated in November 1985.

[Statutory Authority: RCW 74.08.090, 86-16-044 (Order 2400), § 388-24-044, filed 8/1/86; 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 stepparent 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 388-24-060 Aid to families with dependent children--regular--Deprivation due to death.** (1) If either or both parents are deceased, a child is considered as deprived of parental support or care except that:

(2) Deprivation of parental support or care due to death is overcome by marriage or remarriage of the remaining parent. A stepparent is legally responsible for providing support and care to a stepchild.

[Order 597, § 388-24-060, filed 9/1/71; Order 530, § 388-24-060, filed 3/31/71, effective 5/1/71; Regulation 6.2211, filed 8/29/66; Regulation 6.2211, filed 12/31/65.]

**WAC 388-24-065 Aid to families with dependent children--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) Deprivation due to physical or mental incapacity of a parent shall be deemed to exist when the parent of an otherwise eligible child has a physical or mental illness, defect, or impairment. The incapacity shall be supported by competent medical testimony and must be of such a debilitating nature as to reduce substantially or eliminate the parent's ability to support or care for the otherwise eligible child and be expected to last at least thirty days. In making the determination of ability to support, the limited employment opportunities of the handicapped shall be taken into account.

(3) Deprivation exists if the incapacity:

(a) Reduces substantially or eliminates the parent's ability to care for the child;

(b) Is the reason employers refuse to employ the parent for work he or she could do. (This includes behavioral disorders and other impairments interfering with the securing and maintaining of employment); or

(c) Prevents the parent from working full time at a job in which he or she has customarily engaged; and from working full time on another job for which he or she is equipped by education, training, or experience or which can be learned by on-the-job training; or

(d) Prevents the parent from accomplishing as much on a job as a regular employee and is the reason he or she is paid on a reduced basis even though working full time; or

(e) Qualifies the parent for placement in a job which is rehabilitative, therapeutic or in a sheltered workshop not considered to be a competitive full-time job and he or she is placed in such a job.

(4) 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.

(5) 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.

(6) 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 (12) of this section.)

(7) 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.

(8) Deprivation due to incapacity shall be determined by the department in accordance with the criteria in subsections (1) through (7) 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.

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

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

(11) Eligibility of either parent or stepparent in the home for veterans' benefits based on disability of fifty percent or more or for any Social Security Administration benefit based on disability shall establish incapacity for aid to families with dependent children benefits, without further medical documentation.

(12) 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. 86-13-064 (Order 2388), § 388-24-065, filed 6/18/86; 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 388-24-090 Eligibility conditions applicable to AFDC--Employment or training.** Effective August 23, 1983:

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

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

(3)(a) An AFDC recipient, unless a volunteer, certified for the work incentive (WIN) program and determined by DES to have refused employment or training or participation in the WIN program without good cause shall be subject to provisions of WAC 388-57-061.

(b) An AFDC recipient, unless a volunteer, certified for the E&T program and determined by DSHS to have refused employment, training, or participation in the E&T program without good cause shall be subject to provisions of WAC 388-57-061.

(4) A child's eligibility is not affected by the WIN/E&T registration requirement for the parent or needy caretaker relative in the AFDC-R program. A child's eligibility is affected by the WIN/E&T requirement for the unemployed qualifying parent in the AFDC-E program.

(5) An individual determined to be exempt from registration for WIN/E&T on the basis of documented incapacity shall be referred to DVR. See also WAC 388-52-150 through 388-52-155.

[Statutory Authority: RCW 74.08.090, 83-22-066 (Order 2033), § 388-24-090, filed 11/2/83; 81-10-012 (Order 1644), § 388-24-090, filed 4/27/81. Statutory Authority: RCW 43.20A.550, 79-11-081 (Order 1444), § 388-24-090, filed 10/23/79. Statutory Authority: RCW 74.08.090, 79-03-013 (Order 1368), § 388-24-090, filed 2/15/79; Order 1118, § 388-24-090, filed 5/13/76; Order 829, § 388-24-090, filed 7/26/73; Order 748, § 388-24-090, filed 12/7/72; Order 609, § 388-24-090, filed 9/22/71; Order 597, § 388-24-090, filed 9/1/71; Order 530, § 388-24-090, filed 3/31/71, effective 5/1/71; Order 496, § 388-24-090, filed 11/25/70, effective 1/1/71; Order 447, § 388-24-090, filed 5/14/70, effective 6/15/70; Order 319, § 388-24-090, filed 11/27/68; Emergency Order 305, filed 9/20/68; Regulation 6.231, filed 8/29/66, effective 2/1/66; Regulation 6.231, filed 12/31/65, 6/17/64, 1/24/64.]

**WAC 388-24-107 Eligibility conditions applicable to AFDC-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 388-24-108 Eligibility conditions applicable to AFDC--Assignment of rights to support.**

(1) As a condition of eligibility each applicant for or recipient of AFDC shall assign to the office of support enforcement any and all right, title, and interest in any support obligation the applicant or recipient may have in his or her own behalf or on the behalf of any family member for whom application is being made; such assignment shall include rights in support payments which have accrued prior to the time assignment is made, and shall require the applicant/recipient to promptly remit to the office of support enforcement any payments received directly from the person legally responsible to pay support. Payment of public assistance to the applicant shall constitute an agreement to the assignment of rights to support by the applicant, as provided under RCW 74.20.330.

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

(3) The requirement of subsection (1) of this section shall be applicable to recipients no later than the next regular redetermination of eligibility.

[Statutory Authority: RCW 74.08.090. 82-13-080 (Order 1829), § 388-24-108, filed 6/21/82; 81-10-012 (Order 1644), § 388-24-108, filed 4/27/81; Order 1054, § 388-24-108, filed 9/25/75.]

**WAC 388-24-109 Eligibility conditions applicable to AFDC--Cooperation in obtaining support from absent parents.**

As a condition of eligibility each applicant for or recipient of AFDC shall be required to cooperate as specified in WAC 388-14-200 except as specified in WAC 388-24-111.

[Statutory Authority: RCW 74.08.090. 81-10-012 (Order 1644), § 388-24-109, filed 4/27/81; 78-09-053 (Order 1330), § 388-24-109, filed 8/22/78; Order 1054, § 388-24-109, filed 9/25/75.]

**WAC 388-24-111 Good cause for failure to cooperate with support enforcement.**

(1) The requirement for cooperation of the applicant/recipient in WAC 388-24-109 shall be waived if the department determines that such cooperation would not be in the best interest of the

child(ren) for whom assignment has been made according to WAC 388-24-108.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) The applicant/recipient is currently being assisted by a public or licensed child-placing agency to resolve the issue of whether to keep the child or relinquish it for

adoption, and the discussions have not gone on for more than three months.

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

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

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

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

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

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

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

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

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

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

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

(ii) Withdraw the application for assistance; or

(iii) Request a fair hearing.

(10) For every good cause determination which is based in whole or in part upon the anticipation of emotional harm to the child, the custodial parent or the caretaker relative, the CSO social service staff shall consider and document its findings regarding the following factors:

(a) The present emotional state of the individual subject to emotional harm;

(b) The emotional health history of the individual subject to emotional harm;

(c) The intensity and probable duration of the emotional upset;

(d) The degree of cooperation to be required; and

(e) The extent of involvement of the child in the paternity establishment or support enforcement activity to be undertaken.

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

(a) Afford the office of support enforcement the opportunity to review and comment on the findings and basis for the proposed determination;

(b) Consider any recommendation from the office of support enforcement; and

(c) Provide the office of support enforcement the opportunity to participate in any hearing that results from an applicant's/recipient's appeal of any determination based on a good cause claim.

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

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

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

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

(a) The applicant/recipient shall be so notified and afforded the opportunity to cooperate, withdraw their application for assistance, have the case closed, or request a fair hearing; and

(b) Continued refusal to cooperate shall result in the loss of AFDC eligibility for the caretaker relative as specified in WAC 388-24-108(2).

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

(17) The CSO will promptly report to the office of support enforcement:

(a) All cases in which good cause has been claimed and a determination is pending;

(b) All cases in which it has been determined that there is good cause for refusal to cooperate;

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

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

(e) Results of subsequent eligibility reviews in cases previously determined to have good cause.

[Statutory Authority: RCW 74.08.090. 79-05-041 (Order 1390), § 388-24-111, filed 4/26/79; 78-09-053 (Order 1330), § 388-24-111, filed 8/22/78.]

**WAC 388-24-114 Procedures affecting abandoned child.** (1) "Abandonment" as used herein refers only to the relationship between the parent and the child and must be determined separately from the relationship between the parents. The term is defined as actual desertion by a parent accompanied by an intention, expressed or implied from his conduct, to sever the relation of parent and child so far as possible and to throw off all obligations growing out of the relation. This means more than a mere temporary absence from the home or temporary neglect of parental duty, and constitutes an intent to permanently sever all rights and duties emanating from the parental relationship.

(2) Whenever an application is made for aid to families with dependent children for or on behalf of a dependent child, the local office shall make a determination whether there has been an apparent abandonment and if so, the local office shall:

(a) Inform the applicant of the determination made and that notice may be given by the support enforcement section to law enforcement officials,

(b) Afford the applicant the opportunity to terminate before this notice is given. The request for termination must be reduced to writing by the applicant,

(c) If the applicant chooses to continue receiving assistance, the support enforcement section, after determining that no effective civil remedy exists, shall notify the prosecuting attorney of the abandonment.

[Order 1241, § 388-24-114, filed 9/23/77.]

**WAC 388-24-125 Eligibility conditions applicable to AFDC—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 388-24-190 Coordination of public assistance and child welfare services--Responsibility for protective care for children.** (1) The law places responsibility with the department to provide social services to dependent, neglected, and homeless children and children in danger of becoming delinquent and authorizes the local office to accept custody of children and to provide for their care.

(2) Both the public assistance caseworker and the CWS caseworker operate under the same law. Their functions, however, are different. The public assistance caseworker is responsible for the welfare of children in families who are receiving public assistance while the responsibility of the CWS caseworker may also include services to families not receiving assistance, as well as for children in foster homes, services to unmarried mothers and other child welfare activities. Together they provide the means of development of necessary services to protect children. It is only through close coordination between the services of the public assistance and child welfare service caseworkers that the mandate of the law can be carried out.

(3) All child welfare services are based upon the principle that a child can best develop in a family setting and if at all possible with his own parents.

[Order 530, § 388-24-190, filed 3/31/71, effective 5/1/71; Regulation 6.271, filed 1/24/64.]

**WAC 388-24-200 Reporting child neglect or abuse to juvenile court.** (1) When the LO has knowledge that a child receiving public assistance is being neglected, abused or in danger of becoming delinquent, and when other reasonable efforts in conjunction with other persons or agencies to correct such a condition have failed, the following action shall be taken:

(a) If the condition is not critical, the LO shall notify the juvenile court in writing of the child's situation, requesting the aid of the court for the child by whatever method the court may be able to use in this respect.

(b) If the condition is critical or if prior notice(s) have not been productive of results, and if a parent or relative of the child, or other agency of the community is unwilling to take such action, the LO shall file a petition with the court for removal of the child from the parent or other person responsible for him.

(2) This policy applies in all categories of public assistance.

(3) When, according to the above criteria, the child is endangered emotionally or physically, the difficulty shall be discussed frankly with the parents. If conditions cannot be improved to the extent that the child is properly cared for, court action should be taken so that the child can be placed in an atmosphere conducive to his welfare.

[Order 530, § 388-24-200, filed 3/31/71, effective 5/1/71; Regulation 6.273, filed 1/24/64.]

**WAC 388-24-207 Aid to families with dependent children--foster care--Summary of eligibility conditions.** To be eligible for aid to families with dependent children--foster care a child shall:

(1) Meet all the eligibility requirements in WAC 388-24-040, except for his removal from his or a relative's home as specified in subsection (2); and

(2) Have been removed after April 30, 1961 from a relative's home (WAC 388-24-125) as a result of a judicial determination to the effect that remaining in the relative's home would be contrary to his welfare, for any reason, and who has been placed in foster care as a result of such determination; and

(3) Be under the direct care or supervision of the department in a licensed family foster home, nonprofit group home, or nonprofit child care institution; and

(4) Meet one of the following conditions:

(a) Be receiving AFDC for the month in which court proceedings leading to such determination were initiated, or

(b) Have been eligible to receive AFDC, had application been made, for the month in which court action for his removal was initiated, or

(c) Lived with a specified relative within six months prior to the month in which court proceedings were initiated, and would have been eligible for AFDC in and for the month in which court proceedings were initiated if in that month he had been living with such relative and application for AFDC had been made.

[Order 978, § 388-24-207, filed 10/28/74; Order 530, § 388-24-207, filed 3/31/71, effective 5/1/71; Order 469, § 388-24-207, filed 8/19/70; Order 291, § 388-24-207, filed 6/12/68; Emergency Order 287, filed 5/1/68; Regulation 6.281, filed 6/3/65; Regulation 6.281, filed 1/24/64.]

**WAC 388-24-210 Aid to families with dependent children--foster care--Assistance unit.** The AFDC foster care assistance unit shall consist of only the eligible child.

[Order 530, § 388-24-210, filed 3/31/71, effective 5/1/71; Order 469, § 388-24-210, filed 8/19/70; Order 291, § 388-24-210, filed 6/12/68; Emergency Order 287, filed 5/1/68; Regulation 6.282, filed 1/24/64.]

**WAC 388-24-215 Aid to families with dependent children--foster care--Requirements.** (1) The basic requirements of the eligible child shall be foster family home care, clothing and personal incidentals.

(2) Additional requirements for the eligible child shall be school supplies when not provided by the school, needed transportation costs and psychological services.

[Order 291, § 388-24-215, filed 6/12/68; Emergency Order 287, filed 5/1/68; Regulation 6.283, filed 1/24/64.]

**Reviser's note:** Order 530, filed 3/31/71, effective 5/1/71, states that WAC 388-24-215 is amended, however, an amended section was not filed with this order.

**WAC 388-24-220 Aid to families with dependent children--foster care--Standards and requirements.** (1) The basic requirements of the eligible child shall be care according to

(a) The monthly cost standards for family foster home care in WAC 388-70-042, or

(b) The monthly cost standard for foster care and related services paid by the department to licensed nonprofit child caring agencies and institutions.

[Order 978, § 388-24-220, filed 10/28/74; Order 530, § 388-24-220, filed 3/31/71, effective 5/1/71; Order 469, § 388-24-220, filed 8/19/70; Order 291, § 388-24-220, filed 6/12/68; Emergency Order 287, filed 5/1/68; Regulation 6.284, filed 1/24/64.]

**WAC 388-24-225 Aid to families with dependent children--foster care--Income and nonexempt resources.** The income and resources of the child shall be taken into consideration in determining need according to the rules in WAC 388-28-535(3). Support from parents shall be determined and secured according to the rules in WAC 388-70-075. When the child's parents receive public assistance, the parents' nonexempt income and resources are used first to meet the parents' need including the need of the parents' other minor children.

[Order 978, § 388-24-225, filed 10/28/74; Order 530, § 388-24-225, filed 3/31/71, effective 5/1/71; Order 291, § 388-24-225, filed 6/12/68; Regulation 6.285, filed 1/24/64.]

**WAC 388-24-235 Aid to families with dependent children--foster care--Medical care.** Medical care shall be provided children receiving AFDC-FC in accordance with the rules and procedures which govern the granting of medical care to other children receiving care from foster care funds.

[Order 530, § 388-24-235, filed 3/31/71, effective 5/1/71; Order 469, § 388-24-235, filed 8/19/70; Order 291, § 388-24-235, filed 6/12/68; Regulation 6.287, filed 1/24/64.]

**WAC 388-24-243 Aid to families with dependent children--foster care--Nonprofit agency placement.** (1) When a child is eligible for AFDC-FC and placed with a licensed nonprofit child-caring agency, the custody, planning and casework service shall be developed and maintained by the nonprofit agency. Direct contact with the child and foster home, and casework service to the parents where appropriate, shall be maintained by the agency or institutional staff caring for the child. A quarterly progress report shall be made to the local office authorizing payment for the child's care.

(2) The local office has final responsibility for determining initial and ongoing eligibility for financial support and for approval of the placement and the plan for child care. No payment for care shall be made without the approval of such placement and plan by the local office. This control shall be maintained through written agreements, documentary reports and supervisory conferences with the nonprofit agency.

[Order 530, § 388-24-243, filed 3/31/71, effective 5/1/71; Order 469, § 388-24-243, filed 8/19/70.]

**WAC 388-24-250 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 non-exempt 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 388-24-276 Application.** A person must apply and have eligibility determined prior to the issuance of CEAP.

[Statutory Authority: RCW 74.08.090. 81-20-009 (Order 1704), § 388-24-276, filed 9/25/81.]

**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

388-26-025	Age determination—Specific considerations.
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##### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-26-010	Factors common to two or more programs. [Regulation 7.00, filed 1/24/64.] Repealed by Order 531, filed 3/31/71, effective 5/1/71.
388-26-020	Age—Policies and procedures. [Regulation 7.10, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
388-26-030	Verification methods. [Regulation 7.12, filed 1/24/64.] Repealed by Resolution 217, filed 7/27/67.
388-26-035	Documentary evidence. [Regulation 7.13, filed 1/24/64.] Repealed by Resolution 217, filed 7/27/67.
388-26-085	Residence of women. [Regulation 7.252, filed 1/24/64.] Repealed by Order 366, filed 7/9/69.
388-26-090	Residence of Indians. [Regulation 7.253, filed 1/24/64.] Repealed by Order 366, filed 7/9/69.
388-26-095	Residence of inmate or patient in Washington state institution. [Order 248, § 388-26-095, filed 11/1/67; Regulation 7.254, filed 1/24/64.] Repealed by Order 366, filed 7/9/69.
388-26-100	Servicemen and their dependents. [Regulation 7.255, filed 1/24/64.] Repealed by Order 366, filed 7/9/69.
388-26-110	Residence requirements of other states. [Regulation 7.27, filed 1/24/64.] Repealed by Order 366, filed 7/9/69.
388-26-115	Residence—Verification. [Order 531, § 388-26-115, filed 3/31/71, effective 5/1/71; Order 366, § 388-26-115, filed 7/9/69; Regulation 7.28, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
388-26-122	Citizenship and alienage—Verification of citizenship. [Order 942, § 388-26-122, filed 6/26/74.] Repealed by Order 1241, filed 9/23/77.
388-26-124	Citizenship and alienage—Verification of lawful admission for permanent residence in United States. [Order 942, § 388-26-124, filed 6/26/74.] Repealed by Order 1241, filed 9/23/77.
388-26-126	Citizenship and alienage—Verification of permanent residence in United States under color of law. [Order

942, § 388-26-126, filed 6/26/74.] Repealed by Order 1241, filed 9/23/77.	
388-26-128	Citizenship and alienage—Probative value. [Order 942, § 388-26-128, filed 6/26/74.] Repealed by Order 1241, filed 9/23/77.
388-26-130	Concurrent eligibility—Policies. [No history, a caption section only.] Repealed by Order 531, filed 3/31/71, effective 5/1/71.
388-26-135	Concurrent eligibility—Federal aid programs. [Order 531, § 388-26-135, filed 3/31/71, effective 5/1/71; Regulation 7.31, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
388-26-140	Concurrent eligibility—Federal aid and general assistance. [Order 531, § 388-26-140, filed 3/31/71, effective 5/1/71; Regulation 7.32, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
388-26-200	Transfer of property. [Order 531, § 388-26-200, filed 3/31/71, effective 5/1/71; Regulation 7.50, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
388-26-205	Transfer of property—Definitions. [Order 531, § 388-26-205, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-205, filed 5/26/70, effective 7/1/70; Regulation 7.51, filed 12/21/64, effective 2/1/65; Regulation 7.51, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
388-26-210	Transfer of property—With intent to qualify for public assistance. [Order 531, § 388-26-210, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-210, filed 5/26/70, effective 7/1/70; Regulation 7.52, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
388-26-215	Transfer of property—Transfer within two years prior to application. [Order 531, § 388-26-215, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-215, filed 5/26/70, effective 7/1/70; Regulation 7.53, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
388-26-220	Transfer of property—Adequate consideration. [Order 531, § 388-26-220, filed 3/31/71, effective 5/1/71; Regulation 7.54, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
388-26-225	Transfer of property—Exceptions. [Order 531, § 388-26-225, filed 3/31/71, effective 5/1/71; Regulation 7.55, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
388-26-230	Transfer of property—Adjustment in period of ineligibility. [Order 531, § 388-26-230, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-230, filed 5/26/70, effective 7/1/70; Regulation 7.56, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
388-26-235	Transfer of property—Assistance during period of ineligibility. [Order 531, § 388-26-235, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-235, filed 5/26/70, effective 7/1/70; Regulation 7.57, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
388-26-245	Transfer of property—Life estate, release, assignment—Adequate consideration. [Order 531, § 388-26-245, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-245, filed 5/26/70, effective 7/1/70; Order 256, § 388-26-245, filed 11/8/67; Regulation 7.58, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
388-26-250	State insurance commissioner's table for determining valuation of present worth of life and term estates or annuities. [Order 531, § 388-26-250, filed 3/31/71, effective 5/1/71; Order 256, § 388-26-250, filed 11/8/67; Regulation 7.581, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.

**WAC 388-26-025 Age determination--Specific considerations.** (1) Prior to authorizing a public assistance grant, the fact must be established that the applicant or person in whose behalf aid is granted is within the age limits applicable to the category of assistance from which payment will be made.

(2) Aid to families with dependent children.

(a) The birthdate of a minor child must be definitely established. AFDC may be temporarily granted when personal observation establishes the child's age as obviously within the AFDC age limit. However, the child's age must be accurately determined as soon as possible for purposes of establishing continuing eligibility.

(b) When only the year of birth can be established, the arbitrary birthdate of July 1 is assigned.

[Order 917, § 388-26-025, filed 3/14/74; Order 531, § 388-26-025, filed 3/31/71, effective 5/1/71; Regulation 7.11, filed 7/27/67; Regulation 7.11, filed 1/24/64.]

**WAC 388-26-040 Age determination--Affidavit.**

The affidavit of the applicant himself as to his birthdate made before a judge of the superior court or of the supreme court of the state of Washington is permitted by law. This can be used as verification by those whose own statement of their age is in question.

[Order 917, § 388-26-040, filed 3/14/74; Order 531, § 388-26-040, filed 3/31/71, effective 5/1/71; Regulation 7.14, filed 7/27/67; Regulation 7.14, filed 1/24/64.]

**WAC 388-26-050 Residence.** (1) Residence as an eligibility condition in qualifying for public assistance necessitates determination of whether or not residence has been established in the state of Washington.

(2) There are no durational residence requirements for any category of public assistance.

[Order 531, § 388-26-050, filed 3/31/71, effective 5/1/71; Order 366, § 388-26-050, filed 7/9/69; Regulation 7.20, filed 6/30/67; Regulation 7.20, filed 1/24/64.]

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

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

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

(2) The CSO is not required to find that an applicant is a resident of Washington if he/she is determined to be a bona fide resident of another state; in other words, that he/she is temporarily absent from another state and has not chosen to acquire residence in this state.

[Statutory Authority: RCW 74.08.090. 81-09-043 (Order 1636), § 388-26-055, filed 4/15/81; 80-03-052 (Order 1490), § 388-26-055, filed 2/22/80; Order 531, § 388-26-055, filed 3/31/71, effective 5/1/71; Order 513, § 388-26-055, filed 1/15/71; Order 366, § 388-26-055, filed 7/9/69; Regulation 7.21, filed 6/30/67; Regulation 7.21, filed 1/24/64.]

**WAC 388-26-060 Residence--Maintaining.** (1) A person is considered to have maintained his residence in Washington if, since establishing it, he has not left the state except as specified below.

(2) Absences from the state prior to application are not considered as having interrupted residence when

(a) The absences were enforced or beyond the control of the person, or

(b) The absences were for temporary periods and occurred for specific purposes, which did not involve an intent to change residence and did include a plan for return at a future date.

(3) An applicant who meets the residence requirements and is otherwise eligible may not be disqualified from receiving assistance solely because of the fact that he has, in the past, received assistance from another state or a political subdivision thereof. The LO cannot use the fact that the applicant has been receiving assistance from another state as the basis for determining that such individual is not a resident of Washington.

(4) It is assumed that any person who removes himself from the state of Washington for more than a temporary visit is no longer residing in the state of Washington unless he can present positive evidence to the contrary. No assistance shall be granted to any person who is not residing in the state of Washington according to this assumption. See WAC 388-33-240 pertaining to "visit." A recipient remaining out of the state for more than one month must supply adequate information to overcome the assumption that he no longer intends to reside in the state of Washington.

(5) Assistance can only be continued if the recipient remains in need and can fulfill all eligibility requirements, such as, referral to WIN or other rehabilitative resources, current registration for work, maintenance of services to children, etc.

(6) Noncontinuing GA is not paid to persons outside the state.

[Order 1241, § 388-26-060, filed 9/23/77; Order 531, § 388-26-060, filed 3/31/71, effective 5/1/71; Order 366, § 388-26-060, filed 7/9/69; Regulation 7.22, filed 6/30/67; Regulation 7.22, filed 1/24/64.]

**WAC 388-26-065 Residence--Applicant living in another state.** A person applying to Washington for a public assistance grant while living in another state or country may meet the residence requirement if

(1) He offers convincing proof that he has maintained residence in this state since leaving it. "Proof" shall be more than a "statement of intent" to maintain residence in Washington. The intent must be evidenced by prior acts of a specific nature which bear out the intent and which can be demonstrated. Acceptable evidence may be return trips to this state, written statements to other persons, maintenance of a home in this state, or other such actions;

(2) He once lived and acquired residence in this state and his absence is

(a) Enforced and beyond his control, or

(b) Essential to his welfare and due to his physical or social needs, and

(c) He continues his intention of maintaining his residence in the state of Washington and has a plan to return to the state;

(3) He is living in the United States at the time of application;

(4) Arrangements can be made to have the application taken by a public assistance agency and the necessary investigation made to process the application in accordance with Washington rules.

[Order 531, § 388-26-065, filed 3/31/71, effective 5/1/71; Order 489, § 388-26-065, filed 10/30/70, effective 12/1/70; Order 366, § 388-26-065, filed 7/9/69; Regulation 7.23, filed 1/24/64.]

**WAC 388-26-070 Residence—Applicant receiving assistance from another state.** An applicant who is a recipient of assistance from another state shall be eligible for assistance in Washington when he satisfies the residence requirement of Washington and is otherwise eligible. However, assistance from Washington shall not be authorized until eligibility for assistance from the other state ceases and the grant from the other state is terminated.

[Order 976, § 388-26-070, filed 10/28/74; Order 917, § 388-26-070, filed 3/14/74; Order 531, § 388-26-070, filed 3/31/71, effective 5/1/71; Order 366, § 388-26-070, filed 7/9/69; Regulation 7.24, filed 1/24/64.]

**WAC 388-26-080 Residence—Of children.** A child is residing in the state of Washington if he is making his home in the state.

[Order 531, § 388-26-080, filed 3/31/71, effective 5/1/71; Order 366, § 388-26-080, filed 7/9/69; Regulation 7.251, filed 1/24/64.]

**WAC 388-26-105 Residence—Authorizing return of Washington resident.** (1) When an inquiry is received regarding whether or not a person is a resident of the state of Washington, or should move to the state of Washington, the LO shall

(a) Investigate the pertinent facts relative to the inquiry.

(b) Furnish the other state with pertinent information and, when appropriate, give social facts which indicate whether residence in the state of Washington is or is not in the interest of the individual's welfare.

(c) Inform the inquiring state that the department has no legal authority to authorize the return of individuals to the state or to pay costs of such return.

[Order 531, § 388-26-105, filed 3/31/71, effective 5/1/71; Order 366, § 388-26-105, filed 7/9/69; Regulation 7.26, filed 1/24/64.]

**WAC 388-26-120 Citizenship and alienage.** 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.]

**WAC 388-26-145 Citizenship and alienage—Program preferences.** An individual who is eligible for AFDC benefits and who also is eligible for SSI benefits has the right to elect which program he wishes to enter and which benefits he wishes to claim. An individual may not receive AFDC and SSI benefits concurrently.

[Order 910, § 388-26-145, filed 3/1/74; Order 606, § 388-26-145, filed 9/22/71; Order 531, § 388-26-145, filed 3/31/71, effective 5/1/71; Regulation 7.33, filed 1/24/64.]

**WAC 388-26-149 Property transfer.** Transfer of property may affect current and future eligibility of the applicant or recipient. See WAC 388-28-457 through 388-28-473 for policies regarding the effect of property transfers on need.

[Order 1241, § 388-26-149, filed 9/23/77.]

## Chapter 388-28 WAC

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

#### WAC

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- 388-28-650 Guardianships and trusts—Indians.
- 388-28-020, filed 3/14/74; Order 742, § 388-28-020, filed 11/22/72; Order 650, § 388-28-020, filed 2/9/72; Order 561, § 388-28-020, filed 5/5/71; Order 521, § 388-28-020, filed 3/2/71; Order 442, § 388-28-020, filed 4/15/70; Regulation 8.12, filed 6/14/66; Regulation 8.12, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-025 Standards for requirements—Limitations on requirements. [Order 917, § 388-28-025, filed 3/14/74; Regulation 8.13, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-030 Assistance unit—Supplemental security income beneficiary excluded. [Order 943, § 388-28-030, filed 6/28/74.] Repealed by Order 1241, filed 9/23/77.
- 388-28-035 Assistance units—Aid to blind, old age assistance and disability assistance. [Emergency Order 613, § 388-28-035, filed 10/1/71; Order 604, § 388-28-035, filed 9/22/71; Order 292, § 388-28-035, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regulation 8.141, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-28-040 Assistance units—Aid to families with dependent children. [Order 823, § 388-28-040, filed 7/26/73; Emergency Order 613, § 388-28-040, filed 10/1/71; Order 604, § 388-28-040, filed 9/22/71; Order 292, § 388-28-040, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regulation 8.142, filed 8/29/66; Regulation 8.142, filed 6/14/66, 1/24/64.] Repealed by Order 978, filed 10/28/74.
- 388-28-045 Assistant units—Disability assistance. [Order 292, § 388-28-045, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regulation 8.143, filed 1/24/64.] Repealed by Order 604, filed 9/22/71.
- 388-28-050 Assistance units—Continuing general assistance. [Order 650, § 388-28-050, filed 2/9/72; Order 619, § 388-28-050, filed 10/27/71; Order 345, § 388-28-050, filed 4/16/69; Order 292, § 388-28-050, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regulation 8.144, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-28-055 Assistance units—Housekeeper. [Order 917, § 388-28-055, filed 3/14/74; Order 650, § 388-28-055, filed 2/9/72; Regulation 8.145, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-060 Assistance units—Computing and allocating basic requirements of person in own home. [Order 345, § 388-28-060, filed 4/16/69; Regulation 8.15, filed 7/13/65; Regulation 8.15, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-065 Assistance units—Food, clothing, personal maintenance and necessary incidentals. [Order 345, § 388-28-065, filed 4/16/69; Regulation 8.151, filed 3/31/66; Regulation 8.151, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-070 Assistance units—Shelter. [Order 345, § 388-28-070, filed 4/16/69; Regulation 8.152, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-075 Assistance units—Household maintenance. [Order 345, § 388-28-075, filed 4/16/69; Order 292, § 388-28-075, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regulation 8.153, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-080 Monthly cost of basic requirements—Maximums—Person in own home—Person in medical institution. [Order 1131, § 388-28-080, filed 7/8/76; Order 963, § 388-28-080, filed 8/19/74; Order 902, § 388-28-080, filed 1/29/74; Order 650, § 388-28-080, filed 2/9/72; Order 561, § 388-28-080, filed 5/5/71; Order 521, § 388-28-080, filed 3/2/71; Regulation 8.20, filed 7/27/67; Regulation 8.20, filed 8/29/66, 3/31/66, 12/31/65, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-085 Monthly cost of basic requirements as adjusted for maximum grant limitations—Food. [Order 561, § 388-28-085, filed 5/5/71; Order 521, § 388-28-085, filed 3/2/71; Order 375, § 388-28-085, filed 8/7/69;

**Reviser's note:** Administrative Order 532 filed with the code reviser on March 31, 1971, purported to adopt editorial revisions to chapter 388-28 WAC relating to eligibility for public assistance. Emergency Order 559, filed 4/30/71 and Permanent Order 574, filed 6/22/71 repealed Order 532, filed 3/31/71, before its effective date of May 1, 1971.

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

- 388-28-010 Standards for requirements—Person in own home. [Order 561, § 388-28-010, filed 5/5/71; Order 521, § 388-28-010, filed 3/2/71; Order 442, § 388-28-010, filed 4/15/70; Regulation 8.11, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-020 Standards for requirements—Family relationships. [Order 963, § 388-28-020, filed 8/19/74; Order 917,

- Regulation 8.21, filed 7/27/67; Regulation 8.21, filed 2/23/67, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-090 Monthly cost of basic requirements as adjusted for maximum grant limitations—Clothing. [Order 561, § 388-28-090, filed 5/5/71; Order 521, § 388-28-090, filed 3/2/71; Order 375, § 388-28-090, filed 8/7/69; Regulation 8.22, filed 7/27/67; Regulation 8.22, filed 2/23/67, 8/29/66, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-095 Monthly cost of basic requirements as adjusted for maximum grant limitations—Personal maintenance and necessary incidentals. [Order 561, § 388-28-095, filed 5/5/71; Order 521, § 388-28-095, filed 3/2/71; Order 375, § 388-28-095, filed 8/7/69; Regulation 8.23, filed 7/27/67; Regulation 8.23, filed 2/23/67, 8/29/66, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-098 Increases in monthly standards for basic requirements. [Order 927, § 388-28-098, filed 4/15/74.] Repealed by Order 963, filed 8/19/74. This section was repealed before publication in WAC.
- 388-28-100 Monthly standards for basic requirements—AFDC and continuing general assistance. [Order 1234, § 388-28-100, filed 8/31/77; Order 1145, § 388-28-100, filed 8/26/76; Order 1101, § 388-28-100, filed 2/25/76; Order 1040, § 388-28-100, filed 8/7/75; Order 993, § 388-28-100, filed 12/31/74; Order 963, § 388-28-100, filed 8/19/74 (§ 388-28-100 was repealed by Order 930, filed 4/25/74 and filed as amended by subsequent orders); Order 902, § 388-28-100, filed 1/29/74; Order 823, § 388-28-100, filed 7/26/73; Order 744, § 388-28-100, filed 11/30/72; Order 724, § 388-28-100, filed 10/12/72; Order 650, § 388-28-100, filed 2/9/72.] Repealed by Order 1241, filed 9/23/77.
- 388-28-105 Increases in monthly standards for basic requirements—Shelter. [Order 561, § 388-28-105, filed 5/5/71; Order 521, § 388-28-105, filed 3/2/71; Order 375, § 388-28-105, filed 8/7/69; Regulation 8.241, filed 7/27/67; Regulation 8.241, filed 2/23/67, 8/29/66, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-110 Monthly cost of basic requirements—Home ownership. [Order 375, § 388-28-110, filed 8/7/69; Regulation 8.242, filed 7/27/67; Regulation 8.242, filed 2/23/67, 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-115 Monthly cost of basic requirements as adjusted for maximum grant limitations—Supplied shelter. [Order 521, § 388-28-115, filed 3/2/71; Regulation 8.243, filed 1/24/64.] Repealed by Order 604, filed 9/22/71.
- 388-28-125 Monthly cost of basic requirements as adjusted for maximum grant limitations—Household maintenance—Utilities—Household supplies. [Order 521, § 388-28-125, filed 3/2/71; Order 375, § 388-28-125, filed 8/7/69; Regulation 8.251, filed 7/27/67; Regulation 8.251, filed 2/23/67, 8/29/66, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-130 Fuel for space heating. [Order 521, § 388-28-130, filed 3/2/71; Order 375, § 388-28-130, filed 8/7/69; Regulation 8.252, filed 7/27/67; Regulation 8.252, filed 2/23/67, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-133 Maximums to monthly standards for basic requirements. [Order 1234, § 388-28-133, filed 8/31/77; Order 1145, § 388-28-133, filed 8/26/76; Order 1040, § 388-28-133, filed 8/7/75; Order 963, § 388-28-133, filed 8/19/74; Order 927, § 388-28-133, filed 4/15/74; Order 902, § 388-28-133, filed 1/29/74; Order 823, § 388-28-133, filed 7/26/73; Order 721, § 388-28-133, filed 9/28/72; Order 650, § 388-28-133, filed 2/9/72; Order 561, § 388-28-133, filed 5/5/71.] Repealed by Order 1241, filed 9/23/77.
- 388-28-134 Additional monthly allowance for noninstitutionalized adult recipient of continuing general assistance. [Order 1052, § 388-28-134, filed 10/9/75; Order 917, § 388-28-134, filed 3/14/74; Order 823, § 388-28-134, filed 7/26/73; Order 721, § 388-28-134, filed 9/28/72.] Repealed by Order 1234, filed 8/31/77.
- 388-28-135 Standards for requirements—Transportation—Old age and aid to blind assistance only. [Order 442, § 388-28-135, filed 4/15/70; Order 375, § 388-28-135, filed 8/7/69; Regulation 8.26, filed 7/27/67, 2/23/67, 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-136 Cost standards for requirements—Person in medical institution. [Order 1145, § 388-28-136, filed 8/26/76; Order 1052, § 388-28-136, filed 9/10/75; Order 1017, § 388-28-136, filed 4/14/75.] Repealed by Order 1241, filed 9/23/77.
- 388-28-137 Cost standards for requirements—Person in congregate care facility. [Order 1234, § 388-28-137, filed 8/31/77; Order 1145, § 388-28-137, filed 8/26/76; Order 1076, § 388-28-137, filed 12/17/75; Order 1052, § 388-28-137, filed 9/10/75; Order 1017, § 388-28-137, filed 4/14/75.] Repealed by Order 1241, filed 9/23/77.
- 388-28-138 Cost standards for requirements—Maternity home care. [Order 1234, § 388-28-138, filed 8/31/77; Order 1116, § 388-28-138, filed 4/28/76.] Repealed by Order 1241, filed 9/23/77.
- 388-28-140 Monthly standards for basic requirements—AFDC—Child living with relative not in need. [Order 1234, § 388-28-140, filed 8/31/77; Order 1145, § 388-28-140, filed 8/26/76; Order 1052, § 388-28-140, filed 9/10/75; Order 1007, § 388-28-140, filed 2/13/75; Order 976, § 388-28-140, filed 10/28/74; Order 902, § 388-28-140, filed 1/29/74; Order 823, § 388-28-140, filed 7/26/73; Order 650, § 388-28-140, filed 2/9/72; Order 375, § 388-28-140, filed 8/7/69; Order 346, § 388-28-140, filed 4/16/69; Regulation 8.27, filed 7/27/67; Regulation 8.27, filed 2/23/67, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-142 Monthly standards for basic requirements—AFDC—Child in need of specialized education or training. [Order 1234, § 388-28-142, filed 8/31/77; Order 1052, § 388-28-142, filed 9/10/75; Order 823, § 388-28-142, filed 7/26/73; Order 650, § 388-28-142, filed 2/9/72; Order 561, § 388-28-142, filed 5/5/71; Order 521, § 388-28-142, filed 3/2/71; Order 346, § 388-28-142, filed 4/16/69.] Repealed by Order 1241, filed 9/23/77.
- 388-28-150 Standards for additional requirements under specified circumstances. [Order 1176, § 388-28-150, filed 12/23/76; Order 650, § 388-28-150, filed 2/9/72; Regulation 8.30, filed 7/27/67; Regulation 8.30, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-155 Standards for additional requirements under specified circumstances—Child care expenses for employed person. [Order 1236, § 388-28-155, filed 8/31/77.] Repealed by 78-06-086 (Order 1303), filed 6/2/78. Statutory Authority: RCW 74.04.510 and 74.08.090.
- 388-28-160 Standards for additional requirements under specified circumstances—Board. [Order 823, § 388-28-160, filed 7/26/73; Order 650, § 388-28-160, filed 2/9/72; Order 521, § 388-28-160, filed 3/2/71; Order 375, § 388-28-160, filed 8/7/69; Regulation 8.311, filed 7/27/67; Regulation 8.311, filed 2/23/67, 1/24/64.] Repealed by Order 1052, filed 9/10/75.
- 388-28-165 Standards for additional requirements under specified circumstances—Restaurant meals. [Order 1234, § 388-28-165, filed 8/31/77; Order 1145, § 388-28-165, filed 8/26/76; Order 1052, § 388-28-165, filed 9/10/75; Order 823, § 388-28-165, filed 7/26/73; Order 650, § 388-28-165, filed 2/9/72; Order 521, § 388-28-165, filed 3/2/71; Order 375, § 388-28-165,

- filed 8/7/69; Regulation 8.312, filed 7/27/67; Regulation 8.312, filed 2/23/67, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-170 Standards for additional requirements under specified circumstances—Daily restaurant meals. [Order 1234, § 388-28-170, filed 8/31/77; Order 1145, § 388-28-170, filed 8/26/76; Order 1052, § 388-28-170, filed 9/10/75; Order 902, § 388-28-170, filed 1/29/74; Order 823, § 388-28-170, filed 7/26/73; Order 650, § 388-28-170, filed 2/9/72; Order 375, § 388-28-170, filed 8/7/69; Regulation 8.313, filed 7/27/67; Regulation 8.313, filed 2/23/67, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-180 Standards for additional requirements under specified circumstances—Home delivered meals (meals-on-wheels). [Order 650, § 388-28-180, filed 2/9/72; Regulation 8.315, filed 7/27/67; Regulation 8.315, filed 12/21/64, effective 2/1/65.] Repealed by Order 1241, filed 9/23/77.
- 388-28-185 Standards for additional requirements under specified circumstances—Personal and household service in own home—Adult without minor children in household. [Order 393, § 388-28-185, filed 10/15/69; Regulation 8.32, filed 12/21/64, effective 2/1/65; Regulation 8.32, filed 1/24/64.] Repealed by Order 601, filed 9/8/71.
- 388-28-190 Standards for additional requirements under specified circumstances—Determination of need for service. [Order 393, § 388-28-190, filed 10/15/69; Regulation 8.321, filed 3/21/67; Regulation 8.321, filed 12/21/64.] Repealed by Order 601, filed 9/8/71.
- 388-28-195 Standards for additional requirements under specified circumstances—Cost standard. [Order 393, § 388-28-195, filed 10/15/69; Regulation 8.322, filed 3/21/67; Regulation 8.322, filed 12/24/64, effective 2/1/65.] Repealed by Order 601, filed 9/8/71.
- 388-28-200 Monthly cost of basic requirements as adjusted for maximum grant limitations—Computation of payment for personal and household services in kind. [Order 561, § 388-28-200, filed 5/5/71; Order 521, § 388-28-200, filed 3/2/71; Regulation 8.323, filed 12/21/64, effective 2/1/65.] Repealed by Order 601, filed 9/8/71.
- 388-28-205 Standards for additional requirements under specified circumstances—Old age and survivors insurance tax. [Regulation 8.324, filed 12/21/64, effective 2/1/65.] Repealed by Order 601, filed 9/8/71.
- 388-28-210 Standards for additional requirements under specified circumstances—Personal and household service in own home for adult without minor children in household—Continuing eligibility for services. [Order 403, § 388-28-210, filed 11/24/69; Order 375, § 388-28-210, filed 8/7/69; Regulation 8.325, filed 7/27/67; Regulation 8.325, filed 12/24/64, effective 2/1/65.] Repealed by Order 601, filed 9/8/71.
- 388-28-220 Standards for additional requirements under specified circumstances—Transportation to state of legal residence. [Order 969, § 388-28-220, filed 9/13/74; Order 650, § 388-28-220, filed 2/9/72; Regulation 8.33, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-225 Standards for additional requirements under specified circumstances—Food for guide dog. [Order 1234, § 388-28-225, filed 8/31/77; Order 1145, § 388-28-225, filed 8/26/76; Order 1052, § 388-28-225, filed 9/10/75; Order 902, § 388-28-225, filed 1/29/74; Order 823, § 388-28-225, filed 7/26/73; Order 650, § 388-28-225, filed 2/9/72; Order 375, § 388-28-225, filed 8/7/69; Order 268, § 388-28-225, filed 12/5/67; Regulation 8.34, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-230 Standards for additional requirements under specified circumstances—Telephone. [Order 650, § 388-28-230, filed 2/9/72; Regulation 8.35, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-235 Standards for additional requirements under specified circumstances—Laundry. [Order 1234, § 388-28-235, filed 8/31/77; Order 1145, § 388-28-235, filed 8/26/76; Order 1052, § 388-28-235, filed 9/10/75; Order 823, § 388-28-235, filed 7/26/73; Order 650, § 388-28-235, filed 2/9/72; Order 268, § 388-28-235, filed 12/5/67; Regulation 8.36, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-245 Standards for additional requirements under specified circumstances—Housekeeping service in household with minor children. [Order 650, § 388-28-245, filed 2/9/72; Order 375, § 388-28-245, filed 8/7/69; Order 268, § 388-28-245, filed 12/5/67; Regulation 8.38, filed 12/21/64, effective 2/1/65; Regulation 8.33, filed 1/24/64.] Repealed by Order 1088, filed 1/19/76.
- 388-28-250 Standards for additional requirements under specified circumstances—Cost of participating in supplemental medical insurance benefits (SMIB) under Title XVIII-B of the Social Security Act. [Emergency Order 290, § 388-28-250, filed 5/1/68; Regulation 8.39, filed 8/29/66.] Repealed by Order 292, filed 6/12/68.
- 388-28-251 Winterizing homes. [Order 1045, § 388-28-251, filed 8/14/75.] Repealed by Order 1241, filed 9/23/77.
- 388-28-260 Requirements of person in boarding home—Continuing general assistance. [Order 1234, § 388-28-260, filed 8/31/77; Order 1145, § 388-28-260, filed 8/26/76; Order 1052, § 388-28-260, filed 9/10/75; Order 902, § 388-28-260, filed 1/29/74; Order 823, § 388-28-260, filed 7/26/73; Order 731, § 388-28-260, filed 10/27/72; Order 650, § 388-28-260, filed 2/9/72; Order 521, § 388-28-260, filed 3/2/71; Order 375, § 388-28-260, filed 8/7/69; Regulation 8.411, filed 7/27/67; Regulation 8.411, filed 2/23/67, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-270 Requirements of person in boarding home—Clothing—Aid to blind, disability assistance, old age assistance, general assistance—unemployable. [Order 521, § 388-28-270, filed 3/2/71; Regulation 8.412, filed 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-275 Requirements of person in boarding home—Personal maintenance and necessary incidentals—Aid to blind, disability assistance, old age assistance, general assistance—unemployable. [Order 521, § 388-28-275, filed 3/2/71; Regulation 8.413, filed 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-280 Requirements of person with other living arrangements—Transportation. [Regulation 8.414, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-285 Requirements of person in boarding home—Additional requirements. [Order 917, § 388-28-285, filed 3/14/74; Order 375, § 388-28-285, filed 8/7/69; Regulation 8.415, filed 7/27/67; Regulation 8.415, filed 8/29/66, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-290 Requirements of person with other living arrangement—Institutional living arrangement. [Order 375, § 388-28-290, filed 8/7/69; Regulation 8.42, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-28-292 Adult family home—Care defined. [Order 455, § 388-28-292, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-293 Adult family home—Determination of need for care and placement. [Order 455, § 388-28-293, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-294 Adult family home care—Cost standards. [Order 1234, § 388-28-294, filed 8/31/77; Order 1145, § 388-28-294, filed 8/26/76; Order 1052, § 388-28-294, filed 9/10/75; Order 963, § 388-28-294, filed 8/19/74; Order 902, § 388-28-294, filed 1/29/74; Order 823, § 388-28-294, filed 7/26/73; Order 731, § 388-28-294, filed 10/27/72; Order 650, § 388-28-294, filed 2/9/72; Order 552, § 388-28-294, filed

- 4/1/71; Order 455, § 388-28-294, filed 5/18/70.] Repealed by Order 1241, filed 9/23/77.
- 388-28-295 Adult family home—Standards for payment approval. [Order 455, § 388-28-295, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-296 Adult family home—Standards for home and sponsor. [Order 455, § 388-28-296, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-297 Adult family home—Services to be provided. [Order 455, § 388-28-297, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-298 Adult family home—Application for approval for payment—Home study. [Order 635, § 388-28-298, filed 1/13/72; Order 455, § 388-28-298, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-305 Property rights and entitlements—Rights inherent in relationship. [Order 942, § 388-28-305, filed 6/26/74; Order 703, § 388-28-305, filed 8/11/72; Order 445, § 388-28-305, filed 4/28/70; Regulation 8.51, filed 1/24/64.] Repealed by Order 1054, filed 9/25/75.
- 388-28-315 Property rights and entitlements—Support for dependent children—Parents' responsibility. [Order 942, § 388-28-315, filed 6/26/74; Order 703, § 388-28-315, filed 8/11/72; Order 619, § 388-28-315, filed 10/27/71; Order 481, § 388-28-315, filed 9/29/70, effective 11/1/70; Regulation 8.521, filed 1/24/64.] Repealed by Order 1054, filed 9/25/75.
- 388-28-320 Property rights and entitlements—Absent parent's responsibility—Liability—Recovery. [Order 942, § 388-28-320, filed 6/26/74; Order 703, § 388-28-320, filed 8/11/72; Order 481, § 388-28-320, filed 9/29/70, effective 11/1/70; Regulation 8.522, filed 1/24/64.] Repealed by Order 1054, filed 9/25/75.
- 388-28-323 Property rights and entitlements—Applicant or recipient responsibility. [Order 942, § 388-28-323, filed 6/26/74; Order 703, § 388-28-323, filed 8/11/72; Order 616, § 388-28-323, filed 10/13/71; Order 481, § 388-28-323, filed 9/29/70, effective 11/1/70.] Repealed by Order 1054, filed 9/25/75.
- 388-28-325 Support for dependent children—Obtaining support from absent parent. [Regulation 8.523, filed 1/24/64.] Repealed by Order 481, filed 9/29/70, effective 11/1/70.
- 388-28-330 Support enforcement services. [Regulation 8.524, filed 1/24/64.] Repealed by Order 481, filed 9/29/70, effective 11/1/70.
- 388-28-335 Support enforcement services—Budgeting payments. [Order 274, § 388-28-335, filed 1/29/68; Emergency Order 272, § 388-28-335, filed 12/29/67; Regulation 8.525, filed 1/24/64.] Repealed by Order 481, filed 9/29/70, effective 11/1/70.
- 388-28-337 Property rights and entitlements—Full grant plan. [Order 942, § 388-28-337, filed 6/26/74; Order 703, § 388-28-337, filed 8/11/72; Order 616, § 388-28-337, filed 10/13/71; Order 481, § 388-28-337, filed 9/29/70, effective 11/1/70; Order 274, § 388-28-337, filed 1/29/68; Emergency Order 272, § 388-28-337, filed 12/29/67.] Repealed by Order 1054, filed 9/25/75.
- 388-28-338 Support for dependent children—Optional support plans. [Order 616, § 388-28-338, filed 10/13/71; Order 481, § 388-28-338, filed 9/29/70, effective 11/1/70.] Repealed by Order 703, filed 8/11/72.
- 388-28-340 Property rights and entitlement—Establishment of paternity of illegitimate child. [Order 942, § 388-28-340, filed 6/26/74; Order 703, § 388-28-340, filed 8/11/72; Order 664, § 388-28-340, filed 3/23/72; Order 616, § 388-28-340, filed 10/13/71; Order 481, § 388-28-340, filed 9/29/70, effective 11/1/70; Regulation 8.526, filed 1/24/64.] Repealed by Order 1054, filed 9/25/75.
- 388-28-343 Confidentiality. [Order 942, § 388-28-343, filed 6/26/74.] Repealed by Order 1054, filed 9/25/75.
- 388-28-345 Confidentiality—Procedures affecting abandoned child. [Order 889, § 388-28-345, filed 12/27/73; Order 703, § 388-28-345, filed 8/11/72; Order 481, § 388-28-345, filed 9/29/70, effective 11/1/70; Regulation 8.527, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-395 Community, separate and jointly owned property—Premium for supplementary medical insurance—Title XVIII, Part B. [Order 292, § 388-28-395, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regulation 8.571, filed 12/31/65, effective 7/1/66.] Repealed by Order 917, filed 3/14/74.
- 388-28-455 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.
- 388-28-490 Use of income and income potentials—Recording net cash income computation. [Regulation 8.821, filed 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-525 Net cash income—Self-employment income and expenses. [Order 891, § 388-28-525, filed 12/27/73; Regulation 8.842, filed 1/24/64.] Repealed by 79-04-013 (Order 1369), filed 3/15/79. Statutory Authority: RCW 74.08.090.
- 388-28-550 Net cash income—Income for education or vocational training. [Order 749, § 388-28-550, filed 12/7/72; Order 375, § 388-28-550, filed 8/7/69; Order 296, § 388-28-550, filed 8/26/68; Regulation 8.845, filed 5/17/67; Regulation 8.845, filed 2/3/67, 12/31/65, 1/24/64.] Repealed by Order 891, filed 12/27/73.
- 388-28-576 Tax Reduction Act of 1975—Payments disregarded. [Order 1229, § 388-28-576, filed 8/23/77; Order 1175, § 388-28-576, filed 12/8/76; Order 1110, § 388-28-576, filed 4/15/76; Order 1028, § 388-28-576, filed 5/29/75.] Repealed by 80-04-051 (Order 1496), filed 3/21/80. Statutory Authority: RCW 74.08.090.
- 388-28-605 Net cash income—Produce and supplied food. [Order 521, § 388-28-605, filed 3/2/71; Regulation 8.851, filed 7/13/65; Regulation 8.851, filed 3/11/65, 1/24/64.] Repealed by Order 561, filed 5/5/71.
- 388-28-610 Net cash income—Fuel, water, electricity. [Order 521, § 388-28-610, filed 3/2/71; Regulation 8.852, filed 7/13/65; Regulation 8.852, filed 1/24/64.] Repealed by Order 561, filed 5/5/71.
- 388-28-615 Net cash income—Shelter. [Order 521, § 388-28-615, filed 3/2/71; Regulation 8.853, filed 3/31/66; Regulation 8.853, filed 7/13/65, 1/24/64.] Repealed by Order 561, filed 5/5/71.
- 388-28-625 Net cash income—Annual gross value of supplied food per person by number of months and proportions available. [Regulation 8.854, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-630 Aid to the blind applicant with self-support plan. [Regulation 8.86, filed 6/30/67; Regulation 8.86, filed 6/30/74, 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-28-635 Aid to the blind applicant with self-support plan—Approval of aid to the blind applicant's self-support plan. [Regulation 8.861, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-28-640 Aid to the blind applicant with self-support plan—Comparing requirements' costs with values of nonexempt resources and income to determine financial need and to authorize grant. [Regulation 8.90, filed 1/24/64.] Repealed by Order 604, filed 9/22/71.
- 388-28-645 Aid to the blind applicant with self-support plan—Eligibility or ineligibility of applicant. [Regulation 8.91, filed 1/24/64.] Repealed by Order 604, filed 9/22/71.

**WAC 388-28-005 Financial need—Rules and procedures.** (1) To be eligible for public assistance an applicant must be in financial need. Financial need exists

when the applicant's payment level as hereinafter specified and adjusted for the maximum grant limitations plus authorized additional requirements exceeds the value of nonexempt resources currently possessed and the amount of his nonexempt recurrent and nonrecurrent income. The difference thus computed represents the extent of need which exists.

(2) The rules in chapter 388-28 WAC governing determination of an applicant's financial need for assistance also govern the determination of the continuing need of a recipient unless specifically stated otherwise.

(3) Need is subject to change whenever the recipient's financial circumstances change in such a way that the appropriate payment level or his income is increased or decreased in relation to the standards for assistance.

[Statutory Authority: RCW 74.08.090. 83-04-033 (Order 1940), § 388-28-005, filed 1/28/83, effective 3/1/83; Order 1241, § 388-28-005, filed 9/23/77; Order 561, § 388-28-005, filed 5/5/71; Regulation 8.00, filed 1/24/64.]

**WAC 388-28-300 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 388-28-350 Confidentiality--Stepparent responsibility.** (1) The income and resources of a stepparent are deemed to be available to meet the requirements of the stepchild and its parent in the same manner as the income and resources of the natural or adoptive parent. See WAC 388-28-560.

(2) The stepparent's responsibility for support ceases when the marriage is terminated by death or divorce.

(3) The natural parent of such child is not relieved of a legal obligation to support his child by this provision.

[Order 1132, § 388-28-350, filed 7/8/76; Order 481, § 388-28-350, filed 9/29/70, effective 11/1/70; Regulation 8.53, filed 1/24/64.]

**WAC 388-28-355 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 388-28-360 Community, separate and jointly owned property--Community property.** (1) All property, either real or personal, held in the name of either the husband or wife or both is presumed to be community property. Any income received by either the husband or wife is presumed to be community income. The earnings of the husband, or wife, or both, if not legally separated, are community income.

(2) Property subject to the disposition of either the applicant or his (her) spouse, is presumed to be community property for the purpose of determining eligibility. This presumption stands until overcome by positive evidence to the contrary.

(3) Community property is considered to constitute a resource available to the family unit and hence to both or either spouse. Each member of the marital community shall have his or her eligibility determined on the basis of a family unit and on the basis of the total community property holdings and income, regardless of whether one or both are applicants.

[Regulation 8.551, filed 1/24/64.]

**WAC 388-28-365 Community, separate and jointly owned property--Separate property.** (1) Property is considered as separate property when it has been established that it was acquired (and paid for) by either spouse before marriage, or as a result of gift or inheritance, or was acquired and paid for entirely out of income from separate property. A commingling of community income and income from separate property in the purchase or improvement of property probably destroys the status of separate property.

(2) The husband's separate property and income therefrom and the earnings, if not legally separated, are regarded as community property or earnings and as available to the wife since the husband is required by law to support his wife and she is provided a means by which she can enforce such support.

(3) The wife's separate property, her income from separate property and her earnings if not legally separated, are presumed to be resources available to her husband unless and until it is definitely established that they are in fact not available to meet the requirements of the husband.

[Regulation 8.552, filed 1/24/64.]

**WAC 388-28-370 Community, separate and jointly owned property--Further considerations for determining**

**property of husband and wife.** (1) Transfer of his separate property by the husband does not disqualify the wife, but he may not be included in her grant.

(2) Separate resources or income of a wife shall be presumed to be available to meet the requirements of a husband when:

(a) They are living together; and

(b) The marital relationship is apparently normal and stable with mutual sharing of control and responsibility according to their respective capacities.

(3) Separate property or income of a wife may be considered as not available to meet the requirements of a husband when:

(a) The wife has definitely stated that she will not contribute toward her husband's requirements out of such separate property or income; and

(b) The husband and wife are:

(i) Not living together; or

(ii) Living together, but under situations such as the following:

(A) She has publicly repudiated responsibility for the debts or support of her husband, or

(B) Statements of the spouses are substantiated by other evidence, such as:

(I) Existence of a pattern of segregation of household costs and responsibilities sustained over some reasonable period of time.

(II) Tax reports or tax withholding exemptions showing that neither is considered as dependent on the other; and supporting the separate ownership of the income

(III) Sworn testimony from others who do not stand to benefit directly one way or the other and in a position to know of the family situation

(IV) Other clear and convincing evidence of circumstances resulting in established property settlements or which have effectively excluded the husband from benefiting from the wife's income.

(4) When it has been established that property or income is the separate property of the wife of an applicant.

(a) Transfer of the property by the wife does not disqualify the husband but she may not be included in his grant if she is ineligible because of the transfer.

(b) The husband shall not be declared ineligible on the basis that the market value of the wife's separate property would disqualify her if she were applying, but she may not be included in his grant.

[Regulation 8.553, filed 1/24/64.]

**WAC 388-28-380 Community, separate and jointly owned property--Property jointly owned (not community).** When an applicant has less than full title to property (title is shared with some person other than the spouse and other than the contract vendor, mortgage or lien holder) eligibility shall be determined upon the basis of the applicant's equity in his fractional interest in the value of the property.

[Regulation 8.554, filed 1/24/64.]

**WAC 388-28-385 Community, separate and jointly owned property--Property ownership--Verification.** In the absence of definite evidence to the contrary produced

by the applicant, legally executed bills of sale, purchasing contracts, official tax records, or documents executed for purposes such as securing loans and which specify the applicant as owner, or as carrying the obligation attendant upon ownership, shall be presumed to establish the ownership of such resource by the applicant.

[Regulation 8.56, filed 1/24/64.]

**WAC 388-28-390 Community, separate and jointly owned property--Social insurances and related entitlements.** (1) "Entitlement" means any form of benefit, compensation, insurance, pension (retirement, military, etc.), bonus, allotment, allowance, etc., payable in cash or its equivalent in which an applicant may have a claim or interest recognized in law.

(2) The local office shall carefully examine the interest an applicant may have in any entitlement and explore all of the facts with him.

(3) The local office shall discuss with the applicant any potential entitlements, direct him to the proper agency through which clearance may be made and, if necessary, assist him in obtaining such benefits.

(4) Men who can receive reduced RSI benefits at age sixty-two and women who can do so at age sixty are ineligible for public assistance. Whether or not such person chooses to obtain this reduced benefit is his own decision, but the amount of the resource which he could claim shall be taken into consideration in computing his financial need.

[Order 917, § 388-28-390, filed 3/14/74; Regulation 8.57, filed 2/3/67; Regulation 8.57, filed 12/31/65, 1/24/64.]

**WAC 388-28-392 Community, separate, and jointly owned property--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 or a compensatory award is a resource in the month received and considered with the resources in subsection (2) of this section.

(a) "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.

(b) A "compensatory award" is defined as a one-time settlement or benefit received as a result of a personal

injury or wrongful death or from victims of crime compensation or labor and industries, other than time-loss compensation.

[Statutory Authority: RCW 74.08.090, 86-23-020 (Order 2441), § 388-28-435, filed 11/10/86; 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 388-28-457 Transfer of property.** WAC 388-28-457 through 388-28-465 deal with the transfer of property prior to or at the time of application. If previously owned property was transferred for less than adequate consideration, the value of such transferred resource may affect the eligibility of the applicant.

[Statutory Authority: RCW 74.08.090, 80-14-061 (Order 1547), § 388-28-457, filed 10/1/80; 78-05-088 (Order 1293), § 388-28-457, filed 5/3/78; Order 1241, § 388-28-457, filed 9/23/77.]

**WAC 388-28-458 Definitions.** (1) "Adequate consideration" shall mean that the reasonable value of the goods or services received in exchange for the transferred property approximates the reasonable value of the property transferred.

(2) "Need under normal conditions of living" shall mean the Washington state gross median income adjusted for family size, as promulgated by the secretary of HEW, under the authority granted by Title XX of the Social Security Act, minus other income, during a period of time when not receiving public assistance.

(3) "Public assistance need" means the monthly amount of the department's standards for requirements minus all available income.

(4) "Reasonable value" refers to a reasonable value of the property transferred and the reasonable value of the goods or services received in exchange for the transferred property. The reasonable value of real or personal property transferred and/or received in return is not less than quick-sale value as of the date of transfer.

When property is in the form of cash no question exists as to the value. Items in kind are always evaluated to determine their reasonable value.

(5) "Transfer" shall mean any act or omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills of sale, deeds, mortgages, pledges or any other instrument conveying or relinquishing an interest in property. Transfer of title to a resource occurs by

- (a) An intentional act or transfer, or
- (b) Failure to act to preserve title to the resource.

[Order 1241, § 388-28-458, filed 9/23/77.]

**WAC 388-28-459 Transfer of property with intent to qualify for public assistance.** (1) In the absence of an admission by the applicant, the department shall investigate the facts of the transfer of the nonexempt property on the presumption that an applicant made the transfer with intent to qualify for assistance only when:

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

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

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

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

(3) If the applicant does not overcome the presumption, the rules in WAC 388-28-460 pertain and shall be followed.

[Statutory Authority: RCW 74.08.090, 78-05-088 (Order 1293), § 388-28-459, filed 5/3/78; Order 1241, § 388-28-459, filed 9/23/77.]

**WAC 388-28-460 Transfer within two years prior to application.** (1) An applicant who transfers any nonexempt real or personal property within two years immediately prior to the date of application (or during the application period) without having received adequate consideration for such property shall be deemed to have a resource available to meet his/her needs under normal conditions of living. Personal property as used in this rule means any form of nonexempt property, including money, which is not real property.

(2) The amount considered available to meet need shall be the difference between the reasonable value of the consideration received for the transferred property and the reasonable value of the property transferred. In determining this amount the rules in WAC 388-28-461 and 388-28-462 shall be considered.

(3) If the transfer is taken into account before assistance is authorized the applicant is ineligible from the date of transfer for a period of time determined by dividing the amount considered available to meet need, computed according to subsection (2), by need under normal conditions of living as defined in WAC 388-28-458.

(4) If the transfer is taken into account after assistance is authorized.

(a) The amount of need under normal conditions of living is determined for the period from date of transfer to date of authorization.

(b) If the amount determined according to subsection (4)(a) equals or exceeds the amount considered available to meet need, the transfer does not affect past, current or future eligibility.

(c) If the amount determined according to subsection (4)(a) is less than the amount considered available to

meet need, the individual is ineligible for assistance granted, up to the value of this difference, for the period from grant authorization to the date of grant adjustment to correct the mistake. The amount for which he is ineligible is an overpayment subject to the definition in WAC 388-44-010.

(d) If the sum of the amount of need prior to date of authorization ((4)(a)) and the overpayment ((4)(c)), is less than the amount considered available to meet need, the difference is deemed available to meet future need from the date of grant adjustment to correct the mistake. The individual is ineligible during a future period determined by dividing the difference by need under normal conditions of living. See WAC 388-28-463 for adjustments during this period of ineligibility.

(5) The period of ineligibility shall not exceed two years.

[Statutory Authority: RCW 74.08.090, 78-05-088 (Order 1293), § 388-28-460, filed 5/3/78; Order 1241, § 388-28-460, filed 9/23/77.]

**WAC 388-28-461 Transfer of property--Adequate consideration.** In determining whether the value of the consideration which the applicant received from the transfer of property is adequate or less than adequate in respect to WAC 388-28-459 and 388-28-460 the following factors shall be taken into account:

(1) Circumstances necessitating the transaction. If the applicant's circumstances were such that a forced sale was reasonably indicated, with little time for seeking possible purchasers, the amount realized may be considered adequate although less than the amount which could have been realized by a more leisurely sale.

(2) The business experience or acumen of the seller. One with little experience in business will probably not make as advantageous a deal as one who is experienced and knows how to get the best possible trade.

(3) The market demand for the type of resource transferred. Certain property, such as some securities, automobile, etc., can be readily sold; whereas other property can only be sold on forced sale to speculators, who presumably would pay very little. This might apply to real estate in a locality where there is little demand for property.

(4) Market value of the item transferred may be used as a guide to the reasonableness of the consideration which should have been received. However, less than market value shall not be considered unreasonable if, in view of all existing circumstances and factors, the individual's plan in regard to the transfer had any reasonable basis as illustrated below:

(a) A consideration shall not be deemed reasonable in terms of what should have been received when the consideration received only reduced or diminished the applicant's existent rights and there were no conditioning factors present. For example, an applicant who was the holder of a \$1,000 note, but who settled the note by accepting \$500 would ordinarily be considered to have received less than reasonable consideration. It might be reasonable consideration, however, if there were disputes about the note, etc., and a reasonable compromise seemed desirable.

(b) A transfer of property in settlement of a legally enforceable debt approximately equal to the current fair market value of the property transferred represents reasonable consideration. Likewise, settlement of an unresolved claim (such as a claim for damages) by the transfer of property of approximately equal value is regarded as reasonable consideration in the absence of evidence indicating fraud or collusion. (The advice of the applicant's attorney suggesting settlement would, of course, be substantiating evidence.) The existence of a debt must be established by one or more of the following types of evidence:

(i) A legally recorded instrument evidencing the existence of the debt and executed at or about the time the debt was allegedly incurred

(ii) Other documentary evidence—for example, cancelled checks, receipts, notes, mortgages, or written agreements executed by the principals at or about the time the debt was allegedly incurred

(iii) The sworn affidavits or testimony of at least two disinterested persons not parties to the transaction or directly or indirectly benefiting therefrom, who were in a position to have first-hand knowledge of the situation and arrangements between the principals at the time the debt was allegedly incurred and whose statement corroborates the sworn statement or testimony of the principals.

(iv) Such other evidence as would be accepted by a court of law to establish a debt, such as record of account, etc.

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

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

(5) Debts incurred from the services of a minor child or for loans from a minor child are not recognized as legal obligations.

[Statutory Authority: RCW 74.08.090, 78-05-088 (Order 1293), § 388-28-461, filed 5/3/78; Order 1241, § 388-28-461, filed 9/23/77.]

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

(1) The applicant was the victim of fraud, misrepresentation or coercion and the transfer was based upon such fraud, misrepresentation or coercion; providing that the applicant has initiated and taken any and all possible steps to recover such property or the equivalent thereof in damages. Such facts are established by competent legal advice from the applicant's attorney or, if he has none, the prosecuting attorney. In the event that action has been taken for restitution or damages the applicant may be eligible until the action is concluded providing he proceeds with due diligence.

(2) At the time of the transfer, the applicant was not receiving assistance and did not consider any probable

need for assistance in the foreseeable future. The information provided by the applicant shall be verified in accordance with the rules on verification.

(3) The property was transferred to a spouse pursuant to a divorce or legal separation settlement approved by or ordered by a court of competent jurisdiction.

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

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

(6) The act was the execution of a mortgage of exempt property to secure antecedent debts, the only consideration for which was the forbearance of suit by the mortgagee. "Antecedent debts" means debts which occurred prior to and apart from the transaction giving rise to the execution of the note and mortgage. "Forbearance of suit" refers to the creditor's promise not to enforce his right to payment of the debt by legal proceedings in court. Situations coming under this provision are cleared in writing with the assistant attorney general in the state office.

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

**WAC 388-28-463 Transfer of property--Adjustment in period of ineligibility.** (1) The past and future period of ineligibility as determined in WAC 388-28-459 and 388-28-460 may be reduced if during such time of ineligibility the applicant has demonstrable, unusual nonrecurrent expenses, such as extensive hospitalization, surgery, major disaster, etc., or a major unforeseen change in circumstances.

(2) An applicant who secures a return of the property transferred, or the equivalent value, may be eligible if otherwise qualified. In addition, if he secures a return or a portion of the resource or the equivalent value, the period of ineligibility may be accordingly reduced.

[Order 1241, § 388-28-463, filed 9/23/77.]

**WAC 388-28-464 Transfer of property--Assistance during period of ineligibility.** An applicant who transferred nonexempt property to qualify for assistance as determined by investigation by the department and who has been determined not to be in need for a future period of time, not to exceed two years, shall be granted public assistance only if undue hardship exists. Assistance paid under this rule shall not be considered an overpayment.

[Statutory Authority: RCW 74.08.090, 78-06-023 (Order 1293A), § 388-28-464, filed 5/16/78; 78-05-088 (Order 1293), § 388-28-464, filed 5/3/78; Order 1241, § 388-28-464, filed 9/23/77.]

**WAC 388-28-465 Transfer of property--Life estate, release, assignment--Adequate consideration.** (1) The release of a life estate in real property is a transfer of a right in such property and, if done without reasonable consideration, may be regarded as a transfer of property. See WAC 388-28-459 and 388-28-460 to determine how the transferred amount, computed according to subsections (2) through (7) affects eligibility.

(2) When an applicant releases or assigns a life estate, the value of the right transferred shall be determined by using the state insurance commissioner's table for determining valuation of present worth of life and term estates or annuities.

(3) Deleted.

(4) When an individual had complete title to property, transfer with retention or reacquisition of life estate is never adequate consideration, since the individual accepts back less title and less right than he had before.

(5) Life estate in property previously owned may be adequate and reasonable consideration if the individual receives other consideration, such as a release from encumbrances against the property, or the settlement of claims or interests in the property, or the promise in writing of other valuable considerations such as money or services.

(6) Whether life estate was adequate and reasonable consideration requires a determination of

(a) The applicant's equity in the property, and

(b) A determination of his equity in the life estate together with the additional considerations.

(7) The known actual value of a transferred life estate is used if it is greater than the value established according to the insurance commissioner's table.

[Order 1241, § 388-28-465, filed 9/23/77.]

**WAC 388-28-470 Transfer of exempt property by recipient.** (1) The rules in WAC 388-28-470 through 388-28-473 apply to the transfer, in whole or part, by a recipient of various types of property which he owned when he applied for public assistance and which has been declared exempt property.

(2) Exempt property which a recipient may retain and be eligible for public assistance must continue to be retained to be exempt except as provided in WAC 388-28-471 and 388-28-472.

(3) "Transfer" is used as defined in WAC 388-28-458(5) and 388-28-462.

[Order 1241, § 388-28-470, filed 9/23/77.]

**WAC 388-28-471 Exempt property transferable without consent.** (1) Exempt personal property may be transferred without the consent of the local office.

(2) The transfer of exempt personal property will not affect financial need if the following conditions are met.

(a) Proceeds from the transfer in excess of departmental ceiling limits must be expended within sixty days from the date received.

(i) A reasonable delay beyond sixty days may be allowed when the recipient is prevented from carrying out a reinvestment plan because of illness or complications involving the mechanics of the transaction.

(b) Property holdings must be within the department's ceiling limits when the transactions are completed.

(3) The cash reserve may be used for any purpose.

[Order 1241, § 388-28-471, filed 9/23/77.]

**WAC 388-28-472 Exempt property transferable with consent.** (1) With the written approval of the local

office a recipient may transfer any exempt real property or interest in such property, without penalty, to

(a) Buy a home or life estate in a home,

(b) Make necessary repairs or improvements on his home, and/or

(c) Purchase any exempt personal property.

(2) The local office shall approve such transactions if the following conditions are met.

(a) Adequate consideration as specified in WAC 388-28-461 must be received for the property transferred and for the proceeds reinvested.

(b) Reinvestment must be initiated within sixty days.

(i) A reasonable delay beyond sixty days may be allowed when the recipient is temporarily prevented from carrying out a reinvestment plan because of illness or complications involving the mechanics of the transaction.

(c) Property holdings must be within the department's ceiling limits when the transactions are completed.

[Order 1241, § 388-28-472, filed 9/23/77.]

**WAC 388-28-473 Property transferred contrary to WAC 388-28-471 and 388-28-472.** (1) If a recipient transfers previously exempt property contrary to WAC 388-28-471 and 388-28-472 or if the proceeds from the transfer are used for purposes other than described in those rules, the value of the property transferred is considered available to meet need 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 388-28-474 Replacement of exempt property.**

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

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

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

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

(3) Any remaining portion of the settlement, after applying subsections (1) and (2) of this section, shall be considered newly acquired nonexempt income.

[Statutory Authority: RCW 74.08.090, 82-10-059 (Order 1798), § 388-28-474, filed 5/5/82; 82-01-009 (Order 1728), § 388-28-474, filed 12/4/81; 80-14-061 (Order 1547), § 388-28-474, filed 10/1/80; 78-06-088 (Order 1302), § 388-28-474, filed 6/2/78; Order 1241, § 388-28-474, filed 9/23/77.]

**WAC 388-28-475 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 monthly income exceeds the monthly payment level plus authorized additional requirements is not eligible to receive assistance. Ineligibility exists 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 department shall determine the grant amount for the month the application is approved 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 department shall determine the grant amount for the month following the month of initial eligibility 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 department shall base the grant amount for the third month of assistance and subsequent months upon income received in the budget/report month. WAC 388-28-483(3) is an exception to this rule.

(3) Irregular or nonrecurring income.

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

(b) Nonrecurring cash gifts received by an AFDC or RA applicant or recipient shall be disregarded when such gifts do not exceed thirty dollars per individual for any three-month period.

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

(5) Loans.

(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.

(c) 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, 86-23-021 (Order 2442), § 388-28-480, filed 11/10/86; 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 388-28-481 Nonexempt resources and income known at time of application.** Net recurrent or nonrecurrent nonexempt income and nonexempt resource values in cash or kind known to the local office at the time of application shall be taken into account in computing eligibility for payment as specified in WAC 388-28-400 through 388-28-650. WAC 388-28-481 through 388-28-484 shall be applicable when determining the continuing grant amount of the recipient. If a general assistance recipient retains a nonexempt resource which has

been used to compute his or her grant amount at the time of application, the policy in WAC 388-28-484(8) shall be applied to compute his or her eligibility for payment.

[Statutory Authority: RCW 74.08.090, 83-04-033 (Order 1940), § 388-28-481, filed 1/28/83, effective 3/1/83; 82-01-009 (Order 1728), § 388-28-481, filed 12/4/81; Order 1241, § 388-28-481, filed 9/23/77.]

**WAC 388-28-482 Effect of newly acquired income and property on continuing need.** "Newly acquired income" means any previously unreported or undiscovered income which has come into the possession or control, in whole or 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 subsections (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).

(d) An income tax refund within the resource ceiling values in WAC 388-28-430. That portion of the refund which is an earned income tax credit shall be considered newly-acquired income.

(e) A compensatory award within the ceiling values in WAC 388-28-435. Compensatory award is defined in WAC 388-28-435.

(4) Recipient with income. The rule in subsection (1) of this section is modified for a 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, 86-08-008 (Order 2352), § 388-28-482, filed 3/21/86; 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 department 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, including income of an individual who is added to an existing assistance unit. (See subsection (3) of this section for exceptions.) The department 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) The department shall establish an overpayment if the income is underestimated.

(b) The department shall issue a corrective payment if the income is overestimated.

(3) The department shall use retrospective budgeting 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 paycheck 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.

(d) An individual having had income deemed to an assistance unit is added to that assistance unit.

(e) Assistance had been suspended for the payment month due to ineligibility in the budget month.

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

(a) The department 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) Noncontinuous 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, 86-23-021 (Order 2442), § 388-28-483, filed 11/10/86; 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 lump-sum income, plus other income, after applicable disregards exceeds the payment standard, plus authorized additional requirements, the unit shall be ineligible for assistance. Ineligibility shall exist 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) The department shall suspend a general assistance grant when a recipient's nonrecurrent income equals or exceeds one month's payment level plus authorized additional requirements, but is less than two months' payment level plus authorized additional requirements minus other income.

(i) The recipient's grant is suspended from the effective date specified in WAC 388-28-483.

(ii) The suspense 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 WAC 388-28-575 and 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, 86-23-021 (Order 2442), § 388-28-484, filed 11/10/86; 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 388-28-485 Use of income and income potentials--Parental income and support.** (1) Support payments made by or in behalf of an absent parent are income to the child(ren) and are to be treated in accordance with WAC 388-14-210.

(2) When the custodial parent is not included in the assistance unit because of noncompliance with WAC 388-24-108 and 388-24-109:

(a) The income of such parents is allocated according to WAC 388-28-560(2).

(b) Support payments paid directly to the parent and not forwarded to the office of support enforcement are income to the child(ren) and are to be taken into account in determining the need of the assistance unit.

[Order 1054, § 388-28-485, filed 9/25/75.]

**WAC 388-28-500 Use of income and income potentials--Computing and allocating income.** (1) Living arrangements, family relationships, and categories of assistance also affect the use of income in computing financial need as provided by the rules in this section.

(2) Except as provided in this subsection, the nonexempt net income of a person in his 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 388-28-532 Net cash income--Foster home for children and adult family home.** When payment is received by a recipient of or an applicant for public assistance who is operating a foster home for children or a family home for adults, that portion of payment made for such care which is in excess of the department's approved rate for such care shall be considered as net income available to the operator.

[Order 786, § 388-28-532, filed 4/12/73.]

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

(1) 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. 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 Washington state employment opportunities 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;

(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. 86-23-021 (Order 2442), § 388-28-535, filed 11/10/86; 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 388-28-555 Net cash income--Guardianship costs--Retired, disabled and survivors insurance benefits--Veterans benefits.** When appointment of a legal guardian is required by the Social Security Administration or the Veterans Administration as a condition for receipt of a benefit from either agency, the necessary costs of securing a guardian shall be deducted from the benefit received to determine the individual's net income.

[Order 1021, § 388-28-555, filed 4/29/75; Regulation 8.846, filed 1/24/64.]

**WAC 388-28-560 Net cash income--Income for support of legal dependents.** The income of a parent or stepparent shall be allocated as follows:

(1) Parents or stepparents in the assistance unit:

(a) 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.

(b) 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.

(c) To meet the needs of members of the AFDC assistance unit for whom he or she is legally responsible.

(2) Parents or stepparents not in the assistance unit but in the household.

(a) Ineligible parents or stepparents whose income is deemed to the assistance unit shall have that income allocated as in subsections (1)(a), (b), and (c) of this section.

(b) A parent or stepparent who is in sanction status or who is required to be in the assistance unit and has failed to cooperate shall have his or her income deemed to the assistance unit.

[Statutory Authority: RCW 74.08.090. 86-23-021 (Order 2442), § 388-28-560, filed 11/10/86; 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."

(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.

(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) In AFDC, refugee assistance, and general assistance when payment of income earned over a period of more than one month is delayed, the exemption applies to the period during which the income was earned.

(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 incurred must be verified by the provider. The expense must have been incurred for the month of employment being reported 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 monthly gross earned income of each nonstudent dependent child and adult 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.

(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 deductions in subsection (6)(a) and (b) of this section will not be applied for any month the recipient failed without good cause to make a timely report of income. When a timely report is made under these circumstances, the thirty-dollar and one-third exemption shall be counted in the applicable time limits. Good cause shall be determined by the department. Any circumstance beyond the control of the recipient shall constitute good cause.

To be considered timely, a report must be received by the department:

(i) On or before the eighteenth day of the month following the month in which the income was received, or

(ii) By the first following work day if the eighteenth day of the month falls on a weekend or holiday.

(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 nonreceipt 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. 87-01-096 (Order 2449), § 388-28-570, filed 12/22/86; 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 388-28-578 Assistance from other agencies and organizations.** (1) Assistance from other agencies and organizations shall not be deducted in determining the amount of assistance to be paid by the department provided that no duplication shall exist between such other assistance and that provided by the department. To assure nonduplication, aid from other agencies will be considered in relation to:

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

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



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

(2) If the assistance is available to meet need, the assistance shall be exempted up to the difference between the need standard and the payment standard.

[Statutory Authority: RCW 74.08.090. 82-17-003 (Order 1854), § 388-28-578, filed 8/5/82; Order 891, § 388-28-578, filed 12/27/73.]

**WAC 388-28-580 Other income.** Net income from any other nonexempt source shall be the gross amount less any cost of securing or maintaining the income.

[Order 1224, § 388-28-580, filed 7/19/77; Order 891, § 388-28-580, filed 12/27/73; Order 877, § 388-28-580, filed 11/27/73; Order 770, § 388-28-580, filed 1/26/73; Order 650, § 388-28-580, filed 2/9/72; Order 521, § 388-28-580, filed 3/2/71; Order 520, § 388-28-580, filed 2/24/71; Order 445, § 388-28-580, filed 4/28/70; Order 372, § 388-28-580, filed 8/1/69; Order 268, § 388-28-580, filed 12/5/67; Regulation 8.849, filed 12/28/66, 7/13/65, 1/24/64.]

**WAC 388-28-590 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.]

**WAC 388-28-600 Determination of net income in-kind.** (1) Definitions

(a) "Supplied" as used herein means the in-kind item is furnished to the applicant or recipient without work or cost on his part.

(b) "Self-produced" means the applicant or recipient has produced the in-kind item through his own work for himself and not for others. He has not purchased it.

(c) "Earned income in-kind" as used in this section means the in-kind item is earned by work performed for another person by the applicant such as earning rent from a landlord, etc.

(2) The value of self-produced or supplied items shall be disregarded except when:

(a) Self-produced items are sold for cash. When such a sale is made, fifty percent of the cash sale value shall be considered expenses of earning the income.

(b) The household's requirement for shelter is supplied. When the household's shelter is supplied, the payment level for the household shall be those indicated in WAC 388-29-100(3).

(3) Earned income in-kind items shall be evaluated in terms of their cash equivalent. Allowance shall be made for exempt earned income according to WAC 388-28-570. Remaining net income shall be applied in determining need.

[Statutory Authority: RCW 74.08.090. 83-04-033 (Order 1940), § 388-28-600, filed 1/28/83, effective 3/1/83; 78-10-036 (Order 1338), § 388-28-600, filed 9/18/78; Order 1101, § 388-28-600, filed 2/25/76; Order 786, § 388-28-600, filed 4/12/73; Order 650, § 388-28-600, filed 2/9/72; Order 561, § 388-28-600, filed 5/5/71; Order 521, § 388-28-600, filed 3/2/71; Regulation 8.850, filed 7/12/65; Regulation 8.850, filed 1/24/64.]

**WAC 388-28-650 Guardianships and trusts--Indians.** (1) When the superintendent of an Indian agency determines an individual Indian under his or her jurisdiction needs help in managing his or her affairs, the superintendent has the authority, under Title 25, Code of Federal Regulations, Part 104, to control disbursement of the Indian's trust funds. When such authority has been exercised, and the Indian is an applicant for or a recipient of public assistance, the following rules apply:

(a) The superintendent must provide to the department a written statement that he or she is maintaining control of the Indian's trust funds according to the provisions of 25 C.F.R. 104.

(b) The Indian or his or her representative must discuss with the superintendent the availability of trust funds to meet public assistance need, and the superintendent must indicate to the department whether or not funds will be released for this purpose.

(c) Any trust funds disbursed directly to the Indian in excess of exempt resource levels are under his or her control and are available to meet need. See WAC 388-28-440(1).

(d) Funds held in trust by the superintendent and not disbursed are not available to meet need.

(e) Funds disbursed by the superintendent to third parties in payment for goods or services are not under the Indian's control, but may be available to meet need, depending on the nature of the disbursement.

(i) Disbursements to third parties for items duplicating basic requirements, as defined in WAC 388-22-030 (57)(b), are available to meet need.

(ii) Disbursements to third parties for items not duplicating basic requirements are not available to meet need. However, such items must be evaluated with regard to the resource limitations of WAC 388-28-430.

(f) Each periodic redetermination of eligibility shall include a review of disbursements from the individual Indian's trust account.

(2) Real property held in trust for an individual Indian is not an available resource. An Indian applying for or receiving public assistance shall not be required to sell or attempt to sell allotted trust property as a condition of eligibility. Property which has lost its trust status is an available resource.

[Statutory Authority: RCW 74.08.090. 83-21-010 (Order 2031), § 388-28-650, filed 10/6/83; Order 1001, § 388-28-650, filed 1/14/75.]

## Chapter 388-29 WAC STANDARDS--ELIGIBILITY

### WAC

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### 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.
388-29-115	Supplemental payments for AFDC recipients. [Statutory Authority: RCW 74.08.090. 81-09-041 (Order 1635), § 388-29-115, filed 4/15/81; 80-05-046 (Order 1500), § 388-29-115, filed 4/16/80.] Repealed by 82-01-009 (Order 1728), filed 12/4/81. Statutory Authority: RCW 74.08.090.

- 388-29-135 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.
- 388-29-140 Monthly standards for basic requirements—AFDC—Child living with relative not in need. [Statutory Authority: RCW 74.08.090. 78-04-035 (Order 1281), § 388-29-140, filed 3/20/78; Order 1241, § 388-29-140, filed 9/23/77.] Repealed by 78-06-074 (Order 1297), filed 5/31/78, effective 7/1/78. Statutory Authority: RCW 78.08.090 [74.08.090].
- 388-29-155 Standards for additional requirements under specified circumstances—Child care expenses for employed persons. [Statutory Authority: RCW 74.08.090. 80-11-055 (Order 1532), § 388-29-155, filed 8/20/80; 79-10-083 (Order 1434), § 388-29-155, filed 9/21/79; 79-06-007 (Order 1393), § 388-29-155, filed 5/8/79; 78-09-047 (Order 1327), § 388-29-155, filed 8/21/78. Statutory Authority: RCW 74.04.510 and 74.08.090. 78-06-086 (Order 1303), § 388-29-155, filed 6/2/78.] Repealed by 82-01-009 (Order 1728), filed 12/4/81. Statutory Authority: RCW 74.08.090.
- 388-29-158 Standards for additional requirements under specified circumstances—Child care expenses for AFDC recipients in approved training plans. [Statutory Authority: RCW 74.08.090. 81-01-017 (Order 1576), § 388-29-158, filed 12/8/80.] Repealed by 81-10-033 (Order 1649), filed 4/29/81. Statutory Authority: RCW 74.08.090.
- 388-29-170 Standards for additional requirements under specified circumstances—Daily restaurant meals. [Statutory Authority: RCW 74.08.090. 80-11-055 (Order 1532), § 388-29-170, filed 8/20/80; 79-10-083 (Order 1434), § 388-29-170, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-170, filed 7/28/78; Order 1241, § 388-29-170, filed 9/23/77.] Repealed by 81-08-018 (Order 1626), filed 3/25/81. Statutory Authority: RCW 74.08.090.
- 388-29-190 Transportation to state of legal residence. [Statutory Authority: RCW 74.08.090. 78-12-001 (Order 1355), § 388-29-190, filed 11/3/78; Order 1241, § 388-29-190, filed 9/23/77.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 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 388-29-080 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, 1986.

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	\$ 511
2	646
3	800
4	941
5	1,084
6	1,230
7	1,421
8	1,572
9	1,727
10 or more	1,876

(b) Household with supplied shelter effective September 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	\$ 302
2	382
3	472
4	556
5	640
6	726
7	839
8	928
9	1,019
10 or more	1,107

(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, 1986.

Recipients in Household	185% of Need Standard
1	\$ 946
2	1,196
3	1,480
4	1,741
5	2,006

Recipients in Household	185% of Need Standard	Recipients in Household	Payment Standard
6	2,276	1	\$ 186
7	2,629	2	235
8	2,909	3	290
9	3,195	4	342
10 or more	3,471	5	393

(b) Household with supplied shelter effective September 1, 1986.

Recipients in Household	185% of Need Standard
1	\$ 559
2	707
3	874
4	1,029
5	1,184
6	1,344
7	1,553
8	1,717
9	1,886
10 or more	2,048

(3) The state-wide monthly payment standard shall be:

(a) Effective July 1, 1986, payment standards for households with shelter costs reflecting a ratable reduction of 38.6 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) Effective September 1, 1986, payment standards for households with supplied shelter reflecting a ratable reduction of 38.6 percent of 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
6	446
7	515
8	570
9	626
10 or more	680

[Statutory Authority: RCW 74.08.090. 86-16-048 (Order 2404), § 388-29-100, filed 8/1/86; 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

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 388-29-145 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

(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,

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) The department shall allow additional requirements 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 department that the 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) Obtain food, when no other resource is available.

(2) Good cause shall 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 (g) of this section; provided the actions of the recipient were reasonable under the circumstances. A recipient shall 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 shall make a judgment regarding reasonability.

(3) Payments under this section shall not exceed one month's payment standard as set in WAC 388-29-100 for renting, owning, or buying.

[Statutory Authority: RCW 74.08.090. 87-01-071 (Order 2451), § 388-29-270, filed 12/17/86; 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 388-29-295 Standards of assistance--Supplemental security income (SSI) program.** Effective January 1, 1987, the standards of SSI assistance paid to eligible individuals and couples are:

	Standard	Federal Benefit	State Supplement
<b>Area I</b>			
Living alone			
Individuals	\$368.00	\$340.00	\$28.00
Couples			
Both eligible	532.00	510.00	22.00
With essential person	532.00	510.00	22.00
With ineligible spouse	532.00	340.00	192.00



	Standard	Federal Benefit	State Supplement
<b>Area II</b>			
<b>Living alone</b>			
Individuals	347.55	340.00	7.55
<b>Couples</b>			
Both eligible	510.00	510.00	0
With essential person	510.00	510.00	0
With ineligible spouse	500.15	340.00	160.15
<b>Shared living</b>			
Individuals	232.48	226.67	5.81
<b>Couples</b>			
Both eligible	346.30	340.00	6.30
With essential person	346.30	340.00	6.30
With ineligible spouse	346.30	226.67	119.63

[Statutory Authority: RCW 74.08.090, 87-01-102 (Order 2452), § 388-29-295, filed 12/23/86; 86-14-061 (Order 2391), § 388-29-295, filed 6/27/86; 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**

388-33-015	Payment of grant—Persons included.
388-33-020	Payment of grant—Monthly basis.
388-33-025	Payment of grant—Amount.
388-33-045	Payment of grant—Deduction of overpayment.
388-33-050	Payment of grant—Self-imposed maximum amount.
388-33-051	Payment of grant—Rounding down.
388-33-055	Payment of grant—Minimum amount.
388-33-080	Grant authorization, reauthorization, and computation—Authorizing documents.
388-33-085	Grant authorization, reauthorization, and computation—Local office function.
388-33-090	Grant authorization, reauthorization and computation—State office function.
388-33-095	Grant authorization, reauthorization and computation—State office reauthorization and recomputation of grant.
388-33-115	Effective date of eligibility—Applicant, reapplicant and reinstated recipient.
388-33-120	Effective date of eligibility—Exceptions.
388-33-125	Notification of grant approval.
388-33-135	Effective date of change in eligibility.
388-33-140	Effective date of increase or decrease in grant.
388-33-165	Effective date of grant—Fair hearing or court decision involved.
388-33-170	Effective date of grant—Law or rule change involved.
388-33-190	Effective date of grant—Monthly deduction of overpayment.
388-33-195	Effective date of grant—Underpayment.
388-33-230	Address change to another local office area.

388-33-235	Address change to another local office area—Reside permanently.
388-33-240	Address change to another local office area—Visit.
388-33-335	Reduction of grant amount.
388-33-355	Suspension of grant.
388-33-365	Termination of grant.
388-33-370	Termination of suspended grant.
388-33-375	Termination of suspended grant—Authorization of assistance resulting from change of decision on eligibility and grant.
388-33-376	Advance and adequate notice—Suspension—Termination—Reduction of grant.
388-33-377	Grant continuation pending fair hearing.
388-33-382	Notification of suspension or termination or reduction of grant—Effect on eligibility and grant.
388-33-385	Notification of suspension or termination or reduction of grant—Dispensation of advanced notice.
388-33-387	Notification of exception to policy request and decision.
388-33-389	Grievance procedure—Applicants and recipients of public assistance, medical assistance, and social services administered by Title 388 WAC.
388-33-400	Payee of grant.
388-33-420	Payment of grant to other person in behalf of recipient.
388-33-425	Payment of grant to guardian—Continuing general assistance.
388-33-430	Payment of grant to guardian—Aid to families with dependent children—Special and limited nature.
388-33-440	Protective or vendor payment due to mismanagement of AFDC grant.
388-33-442	Protective or vendor payment due to mismanagement of AFDC grant—Plan approval—Duration.
388-33-444	Protective or vendor payment due to mismanagement of AFDC grant—Notice to AFDC recipient, protective payee or vendor.
388-33-446	Protective or vendor payment due to mismanagement of AFDC grant—Discharge of protective payee—Reinstatement of relative payee.
388-33-447	Protective or vendor payment due to mismanagement of AFDC grant—Fair hearing.
388-33-448	Protective or vendor payment due to mismanagement of AFDC grant—Periodic review of plan.
388-33-449	Protective or vendor payment due to mismanagement of AFDC grant—Information confidential.
388-33-450	Protective payment—Employment or work incentive program refused without good cause.
388-33-453	Protective payment—Failure or refusal to cooperate with support enforcement.
388-33-455	Protective payment—Special needs of SSI beneficiary or continuing general assistance recipient.
388-33-457	Protective payment—Modification or termination of plan.
388-33-458	Protective payment—Periodic review.
388-33-459	Protective payment—Fair hearing.
388-33-460	Payment to vendor of goods and services.
388-33-525	Warrant endorsement.
388-33-535	Delivery of warrant.
388-33-545	Delivery of warrant—Address unknown.
388-33-550	Delivery in care of local office.
388-33-576	Loss, theft, or destruction of warrant payable to recipient.
388-33-579	Loss, theft or destruction of warrant payable to vendor.
388-33-585	Cancellation of warrant.
388-33-595	One-time grant—Authorization—Disbursement.
388-33-605	One-time grant—Notification to recipient.

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

388-33-030	Payment limitations—Maximum cost of requirements. [Order 376, § 388-33-030, filed 8/7/69; Regulation 10.14, filed 12/31/65; Regulation 10.14, filed 1/24/64.] Repealed by Order 394, filed 10/15/69.
388-33-105	Grant authorization, reauthorization, computation—Recording denial, grant authorization and change.

- [Order 449, § 388-33-105, filed 5/14/70, effective 6/15/70; Regulation 10.24, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-143 Effective date of budgeting earned income. [Order 966, § 388-33-143, filed 8/29/74.] Repealed by Order 1008, filed 2/13/75.
- 388-33-145 Effective date of change in eligibility—Dates regular grant payments are actually changed. [Regulation 10.262, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-175 Other effective dates—Certification prior to actual change in circumstances. [Regulation 10.273, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-180 Other effective dates—Recomputation of age change. [Regulation 10.274, filed 3/31/66; Regulation 10.274, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-210 Other changes affecting grants. [Regulation 10.30, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-220 Other changes affecting grants—Address change within county. [Regulation 10.31, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-245 Other changes affecting grants—Inter county transfer of case record and grant—procedure. [Regulation 10.323, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-250 Other changes affecting grants—Transfer—out by present county. [Regulation 10.324, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-255 Other changes affecting grants—Transfer—in by new county. [Regulation 10.325, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-260 Other changes affecting grants—Transfer involving institutional medical care. [Regulation 10.326, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-265 Other changes affecting grants—Transfer of suspended grant case. [Regulation 10.327, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-270 Other changes affecting grants—Transfer of closed case record. [Regulation 10.328, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-300 Other changes affecting grants—Out of state change of address. [Regulation 10.33, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-310 Other changes affecting grants—Case number change. [Regulation 10.34, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-320 Other changes affecting grants—Name change. [Regulation 10.35, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-350 Suspension or termination of grants. [Order 369, § 388-33-350, filed 8/14/69; Regulation 10.40, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-373 Continuation of assistance pending appeal—Pretermination or presuspension hearing. [Order 534, § 388-33-373, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-373, filed 8/14/69.] Repealed by Order 570, filed 6/11/71.
- 388-33-374 Grant reduction, termination, suspension—Conferences. [Order 694, § 388-33-374, filed 6/29/72; Order 570, § 388-33-374, filed 6/11/71; Order 534, § 388-33-374, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-374, filed 8/14/69.] Repealed by Order 906, filed 2/14/74.
- 388-33-378 Determination—Notification. [Order 906, § 388-33-378, filed 2/14/74; Order 747, § 388-33-378, filed 12/7/72.] Repealed by 78-08-053 (Order 1320), filed 7/20/78. Statutory Authority: RCW 74.08.090.
- 388-33-380 Notification of suspension or termination or reduction of grant. [Order 906, § 388-33-380, filed 2/14/74; Order 694, § 388-33-380, filed 6/29/72; Order 570, § 388-33-380, filed 6/11/71; Order 534, § 388-33-380, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-380, filed 8/14/69; Order 311, § 388-33-380, filed 10/31/68; Regulation 10.43, filed 1/24/64.] Repealed by 78-08-053 (Order 1320), filed 7/20/78. Statutory Authority: RCW 74.08.090.
- 388-33-410 Payee of grant—Money (cash) payments. [Order 357, § 388-33-410, filed 5/29/69; Order 322, § 388-33-410, filed 11/27/68; Emergency Order 306, filed 9/20/68; Regulation 10.51, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-435 Payee of grant—Appointment and payment to agent—OAA, AB, DA, GAU. [Order 322, § 388-33-435, filed 11/27/68; Emergency Order 306, filed 9/20/68; Regulation 10.523, filed 1/24/64.] Repealed by Order 357, filed 5/29/69.
- 388-33-452 Protective payments—Fair hearing. [Order 322, § 388-33-452, filed 11/27/68; Emergency Order 306, filed 9/20/68.] Repealed by Order 357, filed 5/29/69.
- 388-33-454 Protective payments—OAA, AB, DA, GAU. [Order 357, § 388-33-454, filed 5/29/69.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-456 Protective payment—Periodic review. [Order 357, § 388-33-456, filed 5/29/69.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-470 Disbursement—Assistance grants. [Regulation 10.70, filed 8/10/67; Regulation 10.70, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-495 Payment dates. [Regulation 10.72, filed 8/10/67; Regulation 10.72, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-500 Payment dates—Initial grant. [Regulation 10.721, filed 8/10/67; Regulation 10.721, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-505 Payment dates—Adjusting grant. [Regulation 10.722, filed 8/10/67; Regulation 10.722, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-515 Payment dates—One-time grant. [Order 399, § 388-33-515, filed 11/5/69; Regulation 10.723, filed 8/10/67; Regulation 10.723, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-540 Delivery of warrant—Temporary address. [Regulation 10.741, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-555 Delivery of warrant—Change in address or circumstances reported direct to state office. [Regulation 10.744, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-575 Issuance of duplicate warrant. [Order 534, § 388-33-575, filed 3/31/71, effective 5/1/71; Order 426, § 388-33-575, filed 1/21/70; Regulation 10.75, filed 1/24/64.] Repealed by Order 661, filed 3/9/72.
- 388-33-577 Loss, theft or destruction of cash proceeds from warrant. [Statutory Authority: RCW 74.08.090. 78-12-001 (Order 1355), § 388-33-577, filed 11/3/78; Order 1164, § 388-33-577, filed 10/27/76; Order 661, § 388-33-577, filed 3/9/72.] Repealed by 82-16-065 (Order 1852), filed 7/30/82, effective 9/1/82. Statutory Authority: RCW 74.08.090.
- 388-33-630 Immediate warrants issued by ESSO. [Statutory Authority: RCW 74.08.090. 78-11-044 (Order 1351), § 388-33-630, filed 10/20/78; Order 1165, § 388-33-630, filed 10/27/76; Order 791, § 388-33-630, filed 4/12/73; Order 534, § 388-33-630, filed 3/31/71, effective 5/1/71; Order 499, § 388-33-630, filed 5/14/70, effective 6/15/70.] Repealed by 81-09-044 (Order 1637), filed 4/15/81. Statutory Authority: RCW 74.08.090.

**WAC 388-33-015 Payment of grant—Persons included.** Each grant shall encompass only one assistance unit, even though there may be two or more assistance

units in the same family group or household. For proper allocation of requirements and income among assistance units see WAC 388-29-080 and 388-28-500.

[Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-33-015, filed 9/18/78; Order 652, § 388-33-015, filed 2/9/72; Order 534, § 388-33-015, filed 3/31/71, effective 5/1/71; Regulation 10.11, filed 8/29/66; Regulation 10.11, filed 1/24/64.]

**WAC 388-33-020 Payment of grant--Monthly basis.** Continuing grants shall be based upon monthly standards of assistance and payment made accordingly, except as provided in WAC 388-33-382 to comply with the advance notification requirement.

[Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-020, filed 4/15/81; Order 906, § 388-33-020, filed 2/14/74; Order 694, § 388-33-020, filed 6/29/72; Order 534, § 388-33-020, filed 3/31/71, effective 5/1/71; Regulation 10.12, filed 1/24/64.]

**WAC 388-33-025 Payment of grant--Amount.** Each grant shall be paid on the basis of need as defined in WAC 388-22-030 except as modified in WAC 388-33-045 through 388-33-055.

[Order 534, § 388-33-025, filed 3/31/71, effective 5/1/71; Order 394, § 388-33-025, filed 10/15/69; Regulation 10.13, filed 8/29/66; Regulation 10.13, filed 1/24/64.]

**WAC 388-33-045 Payment of grant--Deduction of overpayment.** When a monthly deduction is made from a grant to repay on overpayment WAC 388-44-145 shall apply.

[Order 534, § 388-33-045, filed 3/31/71, effective 5/1/71; Regulation 10.16, filed 8/29/66; Regulation 10.16, filed 3/31/66, 10/1/65, 1/24/64.]

**WAC 388-33-050 Payment of grant--Self-imposed maximum amount.** An eligible person may request payment of less than the amount for which he qualifies. If such request is made in writing the grant shall be limited to the amount he stipulates.

[Order 534, § 388-33-050, filed 3/31/71, effective 5/1/71; Regulation 10.17, filed 1/24/64.]

**WAC 388-33-051 Payment of grant--Rounding down.** Grant payments shall be rounded down to the next whole dollar amount unless the grant is already an even dollar amount.

[Statutory Authority: RCW 74.08.090. 82-24-071 (Order 1918), § 388-33-051, filed 12/1/82.]

**WAC 388-33-055 Payment of grant--Minimum amount.** Grants shall be in the exact amount determined as payable, and rounded down to the next whole dollar. When a grant is less than ten dollars it shall not be paid except for grants that would have exceeded ten dollars prior to the mandatory deduction for recoupment of an overpayment.

[Statutory Authority: RCW 74.08.090. 82-24-071 (Order 1918), § 388-33-055, filed 12/1/82; 82-09-034 (Order 1792), § 388-33-055, filed 4/14/82; 82-01-009 (Order 1728), § 388-33-055, filed 12/4/81; Order 534, § 388-33-055, filed 3/31/71, effective 5/1/71; Regulation 10.18, filed 1/24/64.]

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

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

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

(3) The state office prepares the regular or supplemental warrant registers and the warrants, and completes the payment process. No change may be made by the state office except as described in WAC 388-33-090 and 388-33-095.

[Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-090, filed 4/15/81; Order 906, § 388-33-090, filed 2/14/74; Order 534, § 388-33-090, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-090, filed 5/14/70, effective 6/15/70; Regulation 10.23, filed 1/24/64.]

**WAC 388-33-095 Grant authorization, reauthorization and computation--State office reauthorization and recomputation of grant.** (1) When the department adopts revised standards for requirements, or amends rules regarding income, resources or eligibility, the state office shall determine whether state office recomputation of grant is feasible. If feasible, the state office shall establish the procedure, notify the local office by memorandum and prepare the certification and computation of grant form showing the grant computation.

(2) The state office reauthorizes and recomputes grants if current data about the recipient's eligibility and need are in the state office. If the state office reauthorizes grants the local office shall be informed of the termination or change in amount of the individual's grant. For this purpose the certification and computation of grant form shall be prepared by the state office for each payee and the form sent to the local office responsible for the case.

[Order 906, § 388-33-095, filed 2/14/74; Order 534, § 388-33-095, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-095, filed 5/14/70, effective 6/15/70; Regulation 10.231, filed 1/24/64.]

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

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

(3) In applying this rule the day application was made is not counted.

[Statutory Authority: RCW 74.08.090. 81-12-045 (Order 1661), § 388-33-115, filed 6/3/81; Order 906, § 388-33-115, filed 2/14/74; Order 534, § 388-33-115, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-115, filed 5/14/70, effective 6/15/70; Regulation 10.25, filed 1/24/64.]

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

The effective date of eligibility of a person receiving continuing assistance and applying for a grant in another program shall be the first regular warrant roll for which he is eligible for payment from the new program and the grant under the old program is terminated.

(2) Special event application - (see WAC 388-38-060 and 388-38-070)

(a) The effective date of a grant to a person (except as provided in subsection (1)) applying prior to the occurrence of an event which will make him eligible, shall be the date upon which the event occurs if eligibility otherwise exists on that date.

(b) When such event occurs on a nonworking day, the authorization shall be completed on the first working day following and dated as of the day the special event occurred. This rule also applies when the effective date of a reinstated grant (see subsection (4)) or the thirtieth day after date of application occurs on a nonworking day.

(3) Regular grant terminated in error

(a) A grant terminated because of local or state office error shall be reauthorized (corrected) as a "reopen" action. The effective date is the first of the month in which payment was erroneously discontinued on the regular warrant roll. Reopening shall be authorized promptly.

(b) If the error is discovered within the month in which no payment was made, the individual is not required to complete an eligibility review form. If the termination in error extends for more than thirty days but less than three months, an eligibility review form and other periodic review procedures as appropriate are used. However, if the termination in error extends for more than three months a new application rather than periodic review is required.

(4) Reinstatement of suspended grant

(a) Upon receipt of a request for reinstatement of grant, the local office shall determine current eligibility and need using the periodic review process. The review includes consideration of all eligibility factors.

(b) The effective date of reinstating a grant suspended according to WAC 388-28-484 shall be the date determined at the time of suspension.

(c) The effective date of reinstating a grant suspended because the monthly refund deduction resulted in a payment of less than ten dollars, shall be the first of the month following the month in which the overpayment is liquidated.

(d) A reinstated grant shall not be authorized before the date the event occurred which restored eligibility for payment.

(e) The individual who requests reinstatement of suspended grant within thirty days after a change in his circumstances need not complete an application form but shall complete an eligibility review form.

(5) Incapacity redetermined after termination of GAU. See WAC 388-37-040(3).

[Statutory Authority: RCW 74.08.090. 82-09-034 (Order 1792), § 388-33-120, filed 4/14/82; 82-01-009 (Order 1728), § 388-33-120, filed 12/4/81; 79-06-028 (Order 1398), § 388-33-120, filed 5/16/79; 78-10-036 (Order 1338), § 388-33-120, filed 9/18/78; Order 906, § 388-33-120, filed 2/14/74; Order 791, § 388-33-120, filed 4/12/73; Order 747, § 388-33-120, filed 12/7/72; Order 534, § 388-33-120, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-120, filed 5/14/70, effective 6/15/70; Order 394, § 388-33-120, filed 10/15/69; Regulation 10.251, filed 1/24/64.]

**WAC 388-33-125 Notification of grant approval.** A continuing assistance applicant or recipient shall be notified when the local office authorizes payment of his/her first regular grant or a change in grant.

[Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-125, filed 4/15/81; Order 906, § 388-33-125, filed 2/14/74; Order 534, § 388-33-125, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-125, filed 5/14/70, effective 6/15/70; Order 270, § 388-33-125, filed 12/5/67; Regulation 10.252, filed 7/27/67; Regulation 10.252, filed 7/13/65, 1/24/64.]

**WAC 388-33-135 Effective date of change in eligibility.** (1) A change in circumstances is any change 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 388-33-165 Effective date of grant—Fair hearing or court decision involved.** (1) The fair hearing or court decision will specify the effective date of eligibility or change in the grant. The regular grant change is made on the first possible regular warrant roll date. See WAC 388-33-595 (2)(c)(v) for payment of any adjusting grant due.

(2) When the initial or final hearing decision is favorable to the appellant, or when the local office decides in favor of the appellant prior to the hearing, the local office shall make corrective payments retroactively to the date an incorrect action was taken or such earlier date as is provided under department rules.

[Statutory Authority: RCW 74.08.090. 82-14-047 (Order 1838), § 388-33-165, filed 6/30/82; Order 694, § 388-33-165, filed 6/29/72; Order 534, § 388-33-165, filed 3/31/71, effective 5/1/71; Regulation 10.271, filed 1/24/64.]

**WAC 388-33-170 Effective date of grant--Law or rule change involved.** When change in eligibility or amount of grant results from change in law or department rules the effective date of eligibility for the change in the grant is specified by the department.

[Order 534, § 388-33-170, filed 3/31/71, effective 5/1/71; Regulation 10.272, filed 1/24/64.]

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

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

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

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

(3) A one-time grant shall be authorized expeditiously to compensate the recipient for an underpayment due to an erroneous monthly deduction. Also see WAC 388-33-595 (2)(c)(vii).

[Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-190, filed 4/15/81; Order 906, § 388-33-190, filed 2/14/74; Order 694, § 388-33-190, filed 6/29/72; Order 570, § 388-33-190, filed 6/11/71; Order 534, § 388-33-190, filed 3/31/71, effective 5/1/71; Regulation 10.28, filed 1/24/64.]

**WAC 388-33-195 Effective date of grant--Underpayment.** (1) A current recipient 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 388-33-230 Address change to another local office area.** The eligibility of a recipient who moves from one LO area to another within the state is affected only insofar as his need may change. A change in residence usually involves a change in living arrangements, requirements and/or income, and reauthorization of grant.

[Order 534, § 388-33-230, filed 3/31/71, effective 5/1/71; Regulation 10.32, filed 1/24/64.]

**WAC 388-33-235 Address change to another local office area--Reside permanently.** "Reside permanently" shall mean remaining in the new area for more than ninety days. Intent to reside permanently in another area shall be presumed to exist when the recipient is absent from his former residence for more than ninety days. The LO shall establish intent taking into account the plan, wishes and actions of the recipient.

[Order 534, § 388-33-235, filed 3/31/71, effective 5/1/71; Regulation 10.321, filed 1/24/64.]

**WAC 388-33-240 Address change to another local office area--Visit.** (1) "Visit" shall mean absence of a recipient from his LO area of residence for not more than ninety days. The recipient's declaration of intent to return to his former residence within ninety days after the date he left shall be prima facie evidence that he is on a visit.

(2) The department's office in the area in which the recipient is visiting shall render all service needed to determine whether a change in the recipient's circumstances requires recomputation, suspension, or termination of grant. Any grant action required while the recipient is visiting shall be the sole responsibility of the LO in the area of permanent residence. Ordinarily no change in grant shall be made (other than redirection of warrant) while a recipient is visiting. The regular grant of a visiting recipient shall be increased only when recommended by the LO in the area in which the recipient is visiting.

[Order 534, § 388-33-240, filed 3/31/71, effective 5/1/71; Regulation 10.322, filed 1/24/64.]

**WAC 388-33-335 Reduction of grant amount.** The grant of a continuing assistance recipient will be adjusted when the local office certifies a change of circumstances which reduces the recipient's need.

[Order 906, § 388-33-335, filed 2/14/74; Order 694, § 388-33-335, filed 6/29/72; Order 570, § 388-33-335, filed 6/11/71; Order 534, § 388-33-335, filed 3/31/71, effective 5/1/71; Order 270, § 388-33-335, filed 12/5/67; Regulation 10.36, filed 6/30/67; Regulation 10.36, filed 1/24/64.]

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

(a) 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 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 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, or

(f) The department has knowledge of, or reason to believe, ineligibility would be for only one month and was caused by income or circumstance in the report month.

(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. 86-10-023 (Order 2369), § 388-33-355, filed 5/1/86; 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 388-33-365 Termination of grant.** (1) Termination of a grant is a direct action of the local office. Direct action means that the local office has determined and certified that the recipient fails to meet one or more of the conditions necessary to maintain continued eligibility.

(2) The grant shall be terminated when the local office determines that the recipient does not meet one or more of the conditions required for continued eligibility.

[Order 906, § 388-33-365, filed 2/14/74; Order 694, § 388-33-365, filed 6/29/72; Order 570, § 388-33-365, filed 6/11/71; Order 534, § 388-33-365, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-365, filed 8/14/69; Regulation 10.42, filed 6/30/67; Regulation 10.42, filed 1/24/64.]

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

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

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

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

(4) A period of temporary ineligibility has ended and individual is ineligible for some other reason.

[Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-370, filed 4/15/81; Order 747, § 388-33-370, filed 12/7/72; Order 534, § 388-33-370, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-370, filed 8/14/69; Regulation 10.421, filed 6/30/67; Regulation 10.421, filed 1/24/64.]

**WAC 388-33-375 Termination of suspended grant--Authorization of assistance resulting from change of decision on eligibility and grant.** If the local office changes its decision to reduce, terminate or suspend the grant, assistance shall be authorized expeditiously to meet the recipient's need according to the rules.

[Order 906, § 388-33-375, filed 2/14/74; Order 694, § 388-33-375, filed 6/29/72; Order 570, § 388-33-375, filed 6/11/71; Order 534, § 388-33-375, filed 3/31/71, effective 5/1/71.]

**WAC 388-33-376 Advance and adequate notice--Suspension--Termination--Reduction of grant.** (1) In cases of planned actions to terminate, suspend, or reduce grants to recipients of AFDC, GA, medical assistance, or medical only, the department shall give advance and adequate notice, except as provided in WAC 388-33-385.

(a) "Advance" means that the notice is mailed at least ten days before the date of action.

(b) "Adequate" means a written statement of what action the department intends to take, the facts relating to the decision, the policy supporting the action, the right to request a fair hearing, and the circumstances under which assistance is continued if a hearing is requested.

(2) When advance notice of planned action is not required as provided in WAC 388-33-385:

(a) Notification of planned reduction shall be provided by state office;

(b) The local office shall notify the recipient of suspension or termination action as described in subsection (1)(b) of this section.

(3) When changes in either state or federal law require automatic grant adjustments for classes of recipients, notice shall be given including the specific change in law. The state office shall determine the method by which notice is given.

[Statutory Authority: RCW 74.08.090. 86-10-023 (Order 2369), § 388-33-376, filed 5/1/86; 78-08-053 (Order 1320), § 388-33-376, filed 7/20/78.]

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

(2) When a recipient requests a fair hearing within the advance notice period to appeal the department's planned action to reduce, suspend, or terminate assistance, which is not an automatic grant adjustment required by either state or federal law, the determination of whether the issue is one of policy or is an issue of fact or judgment will be determined at the fair hearing by the hearing examiner.

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

(b) If the issue is one of policy, assistance is discontinued at the end of the month in which the initial hearing is held. The department shall promptly inform the

client in writing if assistance will not be continued, based on the determination that the issue is one of policy.

(3) Assistance shall be reinstated in any case where the notice to reduce, suspend or terminate does not require advance notice, if the recipient requests a fair hearing within ten days of the mailing of the notice of action. Subsections (1) and (2) of this section apply.

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

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

(6) Any assistance received pending a fair hearing or hearing decision is considered to be an overpayment when the fair hearing decision subsequently finds against the client.

[Statutory Authority: RCW 74.08.090. 82-08-037 (Order 1784), § 388-33-377, filed 4/1/82. Statutory Authority: RCW 34.04.020 and 74.08.090. 81-17-069 (Order 1695), § 388-33-377, filed 8/19/81. Statutory Authority: RCW 74.08.090. 81-09-058 (Order 1640), § 388-33-377, filed 4/20/81; 78-08-053 (Order 1320), § 388-33-377, filed 7/20/78; Order 1194, § 388-33-377, filed 3/3/77; Order 906, § 388-33-377, filed 2/14/74; Order 694, § 388-33-377, filed 6/29/72; Order 570, § 388-33-377, filed 6/11/71.]

**WAC 388-33-382 Notification of suspension or termination or reduction of grant—Effect on eligibility and grant.** (1) Rules governing the effective dates of eligibility resulting from changes in circumstances are not altered by rules on notification.

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

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

(b) Assistance granted during a required advance notice period is considered to be an overpayment when the client is ineligible for payment or when payment is received because the required advance notice period extends into the following month during which the recipient is not eligible.

[Statutory Authority: RCW 74.08.090. 82-08-037 (Order 1784), § 388-33-382, filed 4/1/82; Order 906, § 388-33-382, filed 2/14/74; Order 791, § 388-33-382, filed 4/12/73; Order 694, § 388-33-382, filed 6/29/72.]

**WAC 388-33-385 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.

(10) For AFDC, when the local office takes action because of information the recipient reported on the monthly report.

[Statutory Authority: RCW 74.08.090. 86-09-081 (Order 2363), § 388-33-385, filed 4/22/86; 84-09-071 (Order 2093), § 388-33-385, filed 4/18/84; Order 906, § 388-33-385, filed 2/14/74.]

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

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

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

(3) Of the approval or denial of an exception to policy request.

[Statutory Authority: RCW 74.08.090. 82-04-077 (Order 1760), § 388-33-387, filed 2/3/82.]

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

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



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

(4) The CSO administrator shall make a decision on a grievance and send the applicant or recipient written notice of his or her decision within ten days of receipt of the grievance. This notice terminates the grievance procedure.

(5) The exercise of the right to pursue a grievance shall not in any way preclude the exercise of any rights of the applicant or recipient may have under chapter 388-08 WAC.

(6) If administrative or judicial review is pending on the same issue, the department may choose to respond to the grievance by informing the applicant or recipient that the department prefers that the matter be resolved through the administrative or judicial review process.

[Statutory Authority: RCW 74.08.090. 82-04-077 (Order 1760), § 388-33-389, filed 2/3/82.]

**WAC 388-33-400 Payee of grant.** (1) Cash payments are made directly to all continuing assistance recipients except as modified in items (2)(b)(ii) through (2)(b)(iv).

(2) Grants are paid

(a) To eligible persons in cash (state warrant), or

(b) To other persons in behalf of the eligible persons as

(i) Cash payments to parents and other relatives in behalf of children eligible for aid to families with dependent children;

(ii) Cash payments to guardians and agents as described in WAC 388-33-420 through 388-33-430;

(iii) Protective payment in GAU as specified in WAC 388-33-455;

(iv) Protective payments in aid to families with dependent children as specified in WAC 388-33-440, 388-33-450, and 388-33-453.

(v) Payments to vendors of goods and services supplied to eligible persons as described in WAC 388-33-460.

(3) In authorizing any payment of assistance the local office shall specify the person to whom the grant is to be paid.

[Order 1054, § 388-33-400, filed 9/25/75; Order 906, § 388-33-400, filed 2/14/74; Order 534, § 388-33-400, filed 3/31/71, effective 5/1/71; Order 357, § 388-33-400, filed 5/29/69; Order 322, § 388-33-400, filed 11/27/68; Emergency Order 306, filed 9/20/68; Regulation 10.50, filed 1/24/64.]

**WAC 388-33-420 Payment of grant to other person in behalf of recipient.** (1) Inasmuch as children are legally under the custody of their parents, AFDC payments are usually made to a parent or parents. When a parent is not available, payments are made to other relatives in behalf of the children. See WAC 388-33-430, 388-33-440 and 388-33-450 for AFDC payments other than to the parent or relative payee.

(a) Temporary AFDC payee. The following rule applies to temporary situations when a person other than a

parent or specified relative lives with and assumes care and supervision of a child.

(i) When an emergency deprives a child receiving AFDC of the care and supervision of the parent or relative with whom he is living, AFDC may be continued and be paid to a person acting for the parent or relative during a temporary period required to make and carry out new plans for the child's continuing care and support.

(ii) AFDC is continued under this rule for only the period of time actually necessary to carry out active planning for the continuing care of the child and to transfer responsibility for the child under a more permanent arrangement. The emergency payee is not included in the AFDC assistance unit.

(2) Arrangements for payment to someone other than the individual eligible for continuing general assistance shall be made only when he is definitely unable to make personal decisions for the use of his funds and the assistance of a relative, friend or caseworker is not possible or is not sufficient to continue money payments to him.

(3) When a money payment cannot be made directly to an applicant or recipient, a guardian shall be secured or a protective payee shall be designated.

(a) Guardianship is preferable when the individual

(i) Has resources in property, cash or negotiable assets which need management, or

(ii) Needs someone to control his private affairs to a greater extent than helping with the use of his assistance grant, for example, moving the recipient to a more desirable living arrangement.

(b) The designation of a protective payee (person to whom the grant is paid in behalf of the recipient) is preferable when

(i) Help with money management is the recipient's essential need, and

(ii) The recipient does not have resources requiring legal management, and

(iii) Voluntary guidance and assistance is not adequate, and

(iv) Guardianship is not feasible, practical or necessary.

[Order 1241, § 388-33-420, filed 9/23/77; Order 917, § 388-33-420, filed 3/14/74; Order 621, § 388-33-420, filed 10/27/71; Order 534, § 388-33-420, filed 3/31/71, effective 5/1/71; Order 357, § 388-33-420, filed 5/29/69; Order 322, § 388-33-420, filed 11/27/68; Emergency Order 306, filed 9/20/68; Regulation 10.52, filed 1/24/64.]

**WAC 388-33-425 Payment of grant to guardian—Continuing general assistance.** (1) The local office has no authority to petition the court for appointment of a guardian for an adult.

(2) The local office shall not authorize the use of assistance funds to pay the guardianship costs or services.

(3) Should a guardian die, move away, or decline to serve further, the guardianship should be terminated by court action. If the recipient lacks resources to pay for formal (legal) dissolution of guardianship, a change in payee is authorized, and

(a) If the guardian died, a copy of the death certificate is filed in the case record. If necessary, the cost of

the death certificate can be paid from the administrative funds.

(b) If the guardian refuses or is unable to continue to serve, a signed statement from the guardian requesting that the grant no longer be paid to him is filed in the case record.

[Order 917, § 388-33-425, filed 3/14/74; Order 534, § 388-33-425, filed 3/31/71, effective 5/1/71; Order 357, § 388-33-425, filed 5/29/69; Order 322, § 388-33-425, filed 11/27/68; Emergency Order 306, filed 9/20/68; Regulation 10.521, filed 1/24/64.]

**WAC 388-33-430 Payment of grant to guardian--Aid to families with dependent children--Special and limited nature.** If the LO finds that the relative payee of an AFDC grant is not using the grant adequately for the needs of an AFDC child and that it would be beneficial to have a court-appointed guardian, the LO may ask the chief of the child welfare and family services unit to request the attorney general to file a petition in the superior court for the appointment of a guardian of the child(ren). Such guardianship as provided in RCW 74.12.250 is special and limited solely for the purpose of safeguarding the assistance grants made to dependent children. Such guardianship shall terminate upon termination of such assistance grant or sooner upon order of the court.

[Order 534, § 388-33-430, filed 3/31/71, effective 5/1/71; Order 357, § 388-33-430, filed 5/29/69; Order 322, § 388-33-430, filed 11/27/68; Emergency Order 306, filed 9/20/68; Regulation 10.522, filed 1/24/64.]

**WAC 388-33-440 Protective or vendor payment due to mismanagement of AFDC grant.** (1) The rules in this section do not apply to WIN protective payments except as specified in WAC 388-33-450 nor to protective payments resulting from a failure to cooperate with the office of support enforcement except as specified in WAC 388-33-453.

(2) Purpose--criteria for use.

(a) Protective or vendor payment is designed for the small number of aid to families with dependent children cases in which the caretaker relative has demonstrated severe difficulty in managing money, but has the capacity to learn, in a relatively short time, with the aid of social services to manage his funds in a manner that will assure the proper care of the children. These payments may be vendor or money payments. Part of the payment may be made to the family and part may be made to the protective payee or vendor. Evidence of mismanagement of funds must be specific and clearly establish the fact that the way in which the funds are used threatens the well-being of the child. Examples are

(i) Continued inability to plan and spread necessary expenditures over the usual payment period,

(ii) Continued evidence that the children are not properly fed and clothed or that expenditures are made in such a way as to threaten their chances for healthy growth and development,

(iii) Persistent and deliberate failure to meet obligations for rent, food and other essentials,

(iv) Repeated evictions or incurrence of debts against current income.

(b) Protective or vendor payment is not used when the basic problem is insufficient funds rather than management of money. It is not intended for recipients whose mental or physical limitations would prevent them from learning how to manage their own affairs. Protective payment is not used when a financial problem is due only to emergency situations, such as short-term illness, or an unexpected decrease in support payments, or other partial income.

(c) The use of protective or vendor payment is a temporary measure to help improve management and use of money for the best interest of the family. The availability of social services is an essential ingredient to accomplish the educational and constructive purposes of this plan. Chapter 388-16 WAC contains examples of the types of services to the relative in order to assist him or her to avoid the necessity of the protective payment plan or to discontinue its use expeditiously.

(d) The social services supervisor or local office administrator makes the decision to establish a protective or vendor payment plan upon recommendation by the worker. The case record must contain the evidence upon which the worker's recommendation is based. See WAC 388-33-442.

(3) Selection of another individual to be payee of grant

(a) An individual designated to receive all or part of the AFDC payment on behalf of a family must be interested in or concerned with the welfare of the child(ren) and the caretaker relative. To the extent possible, the caretaker relative shall choose the protective payee or participate in the selection of the protective payee. The individual may be

(i) A relative, friend, neighbor, clergyman, or member of a church or community service group,

(ii) An individual who serves with a voluntary social agency, such as family services or settlement centers,

(iii) A home economist with a public or private organization,

(iv) A staff member of homemaker services, house-keeping aide program, practical nurse association, or other agencies,

(v) A staff member of a public agency, such as one administering child welfare, health, rehabilitation, and housing programs,

(vi) An employee of the department when no other suitable person is available. A worker shall not serve as payee for cases in his regular caseload. Department specialists in home and money management are to be given preference over other department staff.

(b) To avoid conflict of interest situations the individual may not be

(i) The local office administrator,

(ii) The local office employee determining the financial eligibility of the family,

(iii) A vendor of goods and services dealing directly with the recipient, such as landlord or grocer,

(iv) Special investigative or resource staff or staff authorizing payments for the recipient,

(v) An employee of the department when the department has legal custody or the responsibility for placement and care of the family's child(ren).

(c) Standards for selecting a protective payee are

(i) Interest and concern in the welfare of the family,

(ii) Ability to help the family make proper use of the assistance payment,

(iii) Accessibility to the family,

(iv) Ability to establish and maintain a positive relationship with the family,

(v) Good character and reliability.

(d) Payee-recipient relationship

The protective payee has the authority and responsibility to make decisions about the expenditures of the assistance payments. The teaching component requires that the recipient participate to the extent of his ability in the decisions.

(e) Payee-department relationship

(i) The payee and the department share in the responsibility for developing plans to improve the recipient's capacity to handle money and to evaluate progress.

(ii) The payee has responsibility for assuring the department that the assistance money has been spent on behalf of the children. This need not be a detailed account.

(iii) The payee's responsibility to the department is defined by the local office in writing with a copy for the recipient, payee, and case record.

(4) Selection of vendor providing goods and services.

(a) In the absence of another individual to act as payee of a protective payment grant, assistance may be paid in whole or in part as vendor payments directly to persons furnishing food, living accommodations or other goods or services to or for the child or relative.

(b) Vendors shall be selected by the recipient or with his participation or consent to the extent possible. Vendors should be easily accessible to the recipient.

[Order 1054, § 388-33-440, filed 9/25/75; Order 700, § 388-33-440, filed 7/27/72; Order 534, § 388-33-440, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-440, filed 3/20/69; Order 322, § 388-33-440, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

**WAC 388-33-442 Protective or vendor payment due to mismanagement of AFDC grant--Plan approval--Duration.** An approved protective or vendor payment plan shall not exceed an initial period of three months. After review of the situation further periods of three months up to a maximum of twenty-four consecutive months may be authorized. See WAC 388-33-448.

[Order 700, § 388-33-442, filed 7/27/72; Order 534, § 388-33-442, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-442, filed 3/20/69; Order 322, § 388-33-442, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

**WAC 388-33-444 Protective or vendor payment due to mismanagement of AFDC grant--Notice to AFDC recipient, protective payee or vendor.** (1) When a protective or vendor payment plan is approved the local office shall notify the relative payee in writing that a decision

has been made to change the payee, the basis for determination, the name of the new payee, or the use of vendor payment, the effective date of change, and that he has the right to appeal the decision.

[Order 700, § 388-33-444, filed 7/27/72; Order 534, § 388-33-444, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-444, filed 3/20/69; Order 322, § 388-33-444, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

**WAC 388-33-446 Protective or vendor payment due to mismanagement of AFDC grant--Discharge of protective payee--Reinstatement of relative payee.** (1) The protective payee may be removed upon his (her) request, when a different payee is designated by the local office or when the relative payee is ready to resume the payee function.

(2) Vendor payments are discontinued when another person is located to serve as protective payee or when the relative payee is ready to resume the payee function.

(3) The local office shall notify the principals of the revised plan to certify the change.

(4) If a guardian is appointed for the payee relative the protective payee is discontinued.

[Order 700, § 388-33-446, filed 7/27/72; Order 534, § 388-33-446, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-446, filed 3/20/69; Order 322, § 388-33-446, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

**WAC 388-33-447 Protective or vendor payment due to mismanagement of AFDC grant--Fair hearing.** (1) The recipient has a right to request a fair hearing regarding the determination:

(a) That a protective or vendor payment should be made,

(b) As to the payee selected,

(c) That foster care will be provided for his child.

(2) This section does not apply to WIN protective payments nor to protective payments resulting from a failure to cooperate with the office of support enforcement.

[Order 1195, § 388-33-447, filed 3/3/77; Order 700, § 388-33-447, filed 7/27/72.]

**WAC 388-33-448 Protective or vendor payment due to mismanagement of AFDC grant--Periodic review of plan.** The social services supervisor or local office administrator shall review the conditions relating to the protective or vendor payment plan every three months or more often, if indicated. The review includes evaluation whether:

(1) Conditions justify continuation of the plan or its modification,

(2) Protective payee's responsibilities are being carried out appropriately,

(3) The relative payee can be expected to resume the payee function,

(4) A court appointed guardian or foster care is needed because the relative payee cannot learn the payee functions and it appears the plan will continue beyond two years.

[Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-448, filed 4/15/81; Order 700, § 388-33-448, filed 7/27/72;]

Order 534, § 388-33-448, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-448, filed 3/20/69; Order 322, § 388-33-448, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

**WAC 388-33-449 Protective or vendor payment due to mismanagement of AFDC grant—Information confidential.** Since a protective payment plan requires services, in many instances outside the agency, and the appointment of a protective payee to work in close relationship with the aid to families with dependent children family, special effort must be made to safeguard information about the family.

Release of information to the protective payee from the public assistance record must be confined to those facts about the family members and their situation that are pertinent to the fulfillment of the payee's responsibility in the home. The need to respect the family's right to confidentiality shall be explained to a prospective protective payee.

[Order 534, § 388-33-449, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-449, filed 3/20/69; Order 322, § 388-33-449, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

**WAC 388-33-450 Protective payment—Employment or work incentive program refused without good cause.** (1) If an individual certified to the work incentive program (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 388-33-455 Protective payment—Special needs of SSI beneficiary or continuing general assistance recipient.** (1) Protective payment for a SSI beneficiary or continuing general assistance recipient is payment to another individual designated as protective payee.

(2) The objective in making protective payments is to assist in money management or provide management of funds for the individual who, by reason of physical or mental condition, is incapable of handling his money in a manner conducive to his continuing health, social adjustment and acceptance in the community.

(3) Allowances for the cost of chore service or special needs such as restaurant meals may be issued to a protective payee when the individual manifests a persistent inability to manage and use his funds for their intended purposes.

(4) When the local office determines that an SSI beneficiary is unable to manage his award, a referral shall be made to the Social Security administration district office for consideration of the designation of a representative payee.

(5) Protective payment is not used when the basic problem is insufficient funds rather than money management or when a financial problem is due to an emergency situation such as short-term illness.

(6) Assistance funds shall not be authorized to the protective payee for his costs or services.

(7) The facts supporting a determination of an individual's inability to manage funds must be specific and clearly establish that his misuse of funds threatens his well being, for example:

(a) Medical or psychological evaluations,

(b) Observation of gross conditions such as extensive paralysis, serious mental retardation, continued disorientation, or severe memory loss,

(c) Continued inability to plan and spread necessary expenditures over the usual payment period,

(d) Persistent failure to pay for rent, utilities, food and other essentials.

(8) The individual designated to receive the payment on behalf of a SSI beneficiary or a continuing general assistance recipient must be interested in or concerned with his welfare. The selection of the protective payee is preferably made by the recipient or with his participation and consent to the extent possible. The protective payee may be

(a) A relative, friend, clergyman, or member of a church,

(b) A member of a community service group, for example, an active participant in a senior citizen's center who takes an interest in being of help to his contemporaries,

(c) An individual who serves with a voluntary social agency or a home economist with a public or private organization,

(d) A staff member of homemaker services, house-keeping aid program, practical nurse association or other agencies,

(e) A staff member of a public agency, such as one administering health, rehabilitation and housing programs,

(f) The superintendent of a public institution for mental disease or for the mentally retarded or his designee,

(g) A department employee when no other suitable person is available. The person determining financial eligibility shall not serve as payee.

(9) To avoid conflict of interest the protective payee may not be

(a) The local office administrator, special investigative or resource staff, or staff handling fiscal processes related to the recipient,

(b) A vendor of goods and services dealing directly to the recipient, such as landlord, nursing home operator, operator of social care facility, or grocer.

(10) Standards for selecting a protective payee are:

(a) Interest and concern in the welfare of the individual,

(b) Ability to help the individual make proper use of the assistance payment when feasible,

(c) Accessibility to the individual,

(d) Ability to establish and maintain a positive relationship with the individual,

(e) Good character and reliability.

(11) The protective payee has the authority and responsibility to make decisions about the expenditure of assistance payments. He should encourage the recipient to participate to the extent of his ability in the decisions.

(a) The payee has responsibility for assuring the department that the assistance is spent on behalf of the recipient. An itemized account is not required, but a record of expenditures for the basic needs of food, shelter, clothing and utilities shall be maintained and kept current for review.

(b) The protective payee may not be qualified as the primary source of information regarding eligibility. His

authority extends only to the grants received and not to the other financial affairs of the recipient. In making a review, the local office must continue to consult the recipient, when he can give pertinent information. Other appropriate persons should be consulted when necessary.

(12) The local office shall provide the recipient and payee a written agreement on the respective roles of the protective payee and the department. Copies of the agreement shall be furnished to the payee and the recipient, and a copy retained in the case record. The local office shall undertake and continue special efforts to protect the welfare of the individual in need of protective payment. The local office in cooperation with the payee shall strive to improve the individual's capacity for self-care and money-management to the extent possible.

(13) The social service supervisor or local office administrator makes the decision to establish a protective payment upon recommendation by the worker. The case record must contain the evidence upon which this recommendation is based.

(14) The decision to establish a protective payment plan shall be discussed with the recipient. He shall be notified in writing of the change in payee, the basis of the determination, the name of the protective payee designated and the effective date of the change.

[Order 933, § 388-33-455, filed 5/15/74; Order 917, § 388-33-455, filed 3/14/74; Order 534, § 388-33-455, filed 3/31/71, effective 5/1/71; Order 357, § 388-33-455, filed 5/29/69.]

**WAC 388-33-457 Protective payment--Modification or termination of plan.** (1) The protective payee may be removed upon his or her request, when a different payee is designated by the LO, or when the recipient is capable of resuming management of his own funds.

(2) When a judicial appointment of a guardian or other legal representative appears to serve the best interests of the individual, such appointment will be sought and the protective payment terminated when the appointment has been made.

(3) The revised plan shall be discussed with the principals and confirmed in writing.

[Order 534, § 388-33-457, filed 3/31/71, effective 5/1/71.]

**WAC 388-33-458 Protective payment--Periodic review.** The need for protective payments and the way in which a protective payee's responsibilities are carried out shall be reconsidered as frequently as indicated by the individual's circumstances and at least every six months.

[Order 534, § 388-33-458, filed 3/31/71, effective 5/1/71.]

**WAC 388-33-459 Protective payment--Fair hearing.** A recipient has the right to a fair hearing if dissatisfied with the decision that a protective payment shall be made or continued, and as to the protective payee selected, or that foster care will be provided. Procedures in chapter 388-08 WAC are followed.

[Order 534, § 388-33-459, filed 3/31/71, effective 5/1/71; Order 357, § 388-33-459, filed 5/29/69.]

**WAC 388-33-460 Payment to vendor of goods and services.** (1) A vendor payment may be used in place of

a one-time payment to provide assistance for an individual who is in emergent need only if:

(a) The individual has been served a sheriff's notice of eviction, and

(i) It is verified that the landlord will not forestall eviction until a one-time payment is received, and

(ii) It is verified that the landlord will not evict the individual after receiving the vendor payment; or

(b) The individual has been served a utility shut-off notice, and

(i) It is verified that the vendor will not forestall shut-off until a one-time grant is received, and

(ii) It is verified that the vendor will not shut off the utility after the vendor payment is received; or

(c) The individual is requesting transportation to his/her state of residence and the means of transportation is provided by a vendor who will accept vendor payment.

(d) The individual requests in writing that a vendor payment be made.

(2) Vendor payments listed in item (1) of this section shall:

(a) Be deducted from the initial and/or regular grant, unless they are issued in place of one-time grant as specified in WAC 388-33-595 (2)(c).

(b) Not be authorized to the extent that the individual can meet the emergent need from his/her cash savings.

(3) A vendor payment may be used to provide assistance when a recipient dies before receiving or endorsing a warrant due him and owes for personal and household service, housekeeping service, or board and room. The amount authorized for vendor payment shall equal the portion of the cancelled warrant actually owed to the vendor.

(4) A vendor payment may be used for an AFDC recipient when:

(a) The local office determines that protective payments are necessary due to mismanagement of the grant by the relative payee - see WAC 388-33-440.

(b) A person certified to the WIN program is determined by the state employment service to have refused employment or to participate in the WIN program without good cause, and vendor payments are the necessary form of payment - see WAC 388-33-450.

(c) A parent or other caretaker relative refuses to assign support rights, to cooperate in identifying and locating absent parents, establishing paternity or obtaining support payments.

(5) A vendor payment may be used to provide assistance for a recipient in a licensed and classified nursing home - see WAC 388-34-035 through 388-34-055, or for a recipient in an intermediate care facility - see WAC 388-34-370 through 388-34-384.

[Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-460, filed 4/15/81; Order 1054, § 388-33-460, filed 9/25/75; Order 747, § 388-33-460, filed 12/7/72; Order 534, § 388-33-460, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-460, filed 5/14/70, effective 6/15/70; Order 341, § 388-33-460, filed 3/20/69; Regulation 10.60, filed 1/24/64.]

**WAC 388-33-525 Warrant endorsement.** (1) Assistance warrants are written to show the payee's surname first, followed by given name and initial, e.g., Smith, John K. The endorsement should be written in the usual manner, that is John K. Smith.

(2) Each warrant must bear the personal endorsement of the payee. No other person, unless he has power of attorney is authorized to endorse and cash the recipient's warrants. If the recipient is unable to sign his name the warrant must be endorsed by his mark or thumbprint, witnessed by two persons, giving their name and addresses.

(3) If the warrant is endorsed by payee name only, the department cannot stop payment if some one other than the payee cashes the warrant.

(4) A person having power of attorney may legally endorse a warrant only when:

(a) The payee (recipient) has granted power of attorney on a properly prepared and legally sufficient document,

(b) The document is recorded in the office of the county auditor,

(c) Two copies of the recorded document certified by the county auditor are on file in the department.

[Order 747, § 388-33-525, filed 12/7/72; Order 534, § 388-33-525, filed 3/31/71, effective 5/1/71; Regulation 10.73, filed 1/24/64.]

**WAC 388-33-535 Delivery of warrant.** (1) After eligibility has been established and a grant authorized the recipient shall receive his warrant promptly without interruption until his grant is suspended or he is no longer eligible and the grant has been terminated except as provided in WAC 388-38-270 and 388-33-382.

(2) The state office shall mail the recipient's warrant directly to his address as certified by the LO except as provided in WAC 388-33-545 through 388-33-550.

[Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-33-535, filed 9/18/78; Order 747, § 388-33-535, filed 12/7/72; Order 534, § 388-33-535, filed 3/31/71, effective 5/1/71; Regulation 10.74, filed 1/24/64.]

**WAC 388-33-545 Delivery of warrant--Address unknown.** (1) At the time the local office requests the warrant of a recipient whose address is unknown a letter shall be mailed to the recipient at his last known address requesting his current address according to provisions in WAC 388-38-265.

[Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-33-545, filed 9/18/78; Order 747, § 388-33-545, filed 12/7/72; Order 534, § 388-33-545, filed 3/31/71, effective 5/1/71; Regulation 10.742, filed 3/11/65; Regulation 10.742, filed 1/24/64.]

**WAC 388-33-550 Delivery in care of local office.** (1) A recipient may request in writing that his warrant be mailed to him in care of the local office; his address is certified accordingly. The warrant will be delivered in an individual sealed envelope.

(2) Delivery of a warrant in care of the local office through local or state office action to redirect shall be as provided in WAC 388-38-270.

[Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-33-550, filed 9/18/78; Order 747, § 388-33-550, filed 12/7/72;

Order 534, § 388-33-550, filed 3/31/71, effective 5/1/71; Regulation 10.743, filed 3/11/65; Regulation 10.743, filed 1/24/64.]

**WAC 388-33-576 Loss, theft, or destruction of warrant payable to recipient.** (1) RCW 43.08.064 and 43.08.066 provide the legal authority for issuing a duplicate warrant.

(2) The recipient shall complete an affidavit or affidavits attesting to the reported facts. The recipient shall file a report for a lost or stolen warrant with the police.

(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, and inform the recipient. The filing of a police report is not necessary prior to a report of lost or undelivered warrant.

(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) The CSO may inquire into the circumstances of the loss or nondelivery prior to authorization of a replacement warrant when the loss or nondelivery is reported sixty days or more after the mailing date. In the event such inquiry results in a determination not to replace the reported warrant, the CSO shall notify the recipient in writing. Written 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.

(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 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 receipt of public assistance warrants (including the replacement warrant) the CSO shall redirect warrants to the local office. The CSO shall redirect warrants for a period of six months. The redirection may be waived if it is determined there is hardship or other good cause.

(10) The CSO shall promptly replace a warrant when:

(a) 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;

(b) 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 CSO shall have the right to inquire into the circumstances and evaluate 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, 86-22-038 (Order 2433), § 388-33-576, filed 11/3/86; 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.]

**WAC 388-33-579 Loss, theft or destruction of warrant payable to vendor.** (1) When a vendor payee reports to the local office that a warrant was not received or that an unendorsed warrant has been lost, stolen or destroyed, LO shall have the vendor payee complete an affidavit attesting to the reported facts.

(2) The local office shall secure all facts surrounding the nonreceipt or loss reported in subsection (1); assess the reported facts and make a judgment as to the validity of the report; determine a course of action appropriate to the facts of the case.

(3) The local office follows procedures established by the department and allows the time needed to make the necessary determination for processing these claims before a duplicate warrant will be issued.

(4) Replacement of unendorsed warrants shall be made in accordance with the procedures established by the department.

(5) The department will not be responsible for replacing an endorsed warrant or cash proceeds of a warrant lost by a vendor.

[Order 661, § 388-33-579, filed 3/9/72.]

**WAC 388-33-585 Cancellation of warrant.** (1) A warrant not endorsed by the payee before he died shall not be endorsed by or to another person. A warrant payable to a deceased payee must be returned to the department for cancellation. See WAC 388-33-460 for vendor payment in such situations.

(2) A warrant not endorsed by a payee (with dependents in his assistance unit) who has left his home must be returned to the SO for cancellation, unless it is feasible to hold the warrant until the payee returns. If there is another eligible payee the warrant is returned for cancellation and the LO simultaneously certifies grant recomputation and name change.

[Order 534, § 388-33-585, filed 3/31/71, effective 5/1/71; Order 426, § 388-33-585, filed 1/21/70; Regulation 10.76, filed 1/24/64.]

**WAC 388-33-595 One-time grant—Authorization—Disbursement.** (1) See WAC 388-22-030 for definition of "one-time grant."

(2) A one-time grant may be authorized and disbursed in the amount necessary subject to the following rules:

(a) A one-time grant shall be authorized for a recipient of continuing assistance only.

(b) A one-time grant authorization is a single payment procedure. It expires when the warrant is mailed. It does not change the amount of the continuing (regular) grant currently authorized.

(c) A one-time grant shall be authorized when:

(i) An additional requirement recognized by department standards will be needed.

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

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

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

(v) A recipient is to be compensated for an underpayment.

(vi) Any one-time grant is approved by the state office under chapter 388-20 WAC for reasons other than those listed in this section.

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

(viii) A change in the basic requirements resulting in an increase in the regular grant occurs.

(ix) Assistance is being continued in compliance with the ten-day advance notice rules on reduction, suspension, or termination of a grant, and a partial month payment is required.

(x) An individual is added to the assistance unit. The one-time grant shall be for the period from the date of eligibility to the date the grant is adjusted.

(d) Except as provided in subsection (2)(c)(iv) and (v) of this section, a retroactive one-time grant shall not cover a period of more than sixty days before the date of authorization.

(e) The effective date of a one-time grant shall be the date the circumstances change, subject to the limitations and conditions stated in this section.

[Statutory Authority: RCW 74.08.090. 83-17-004 (Order 1994), § 388-33-595, filed 8/5/83; 82-16-065 (Order 1852), § 388-33-595, filed 7/30/82, effective 9/1/82; 82-01-009 (Order 1728), § 388-33-595, filed 12/4/81; 81-09-044 (Order 1637), § 388-33-595, filed 4/15/81; 78-09-073 (Order 1332), § 388-33-595, filed 8/25/78; Order 1176, § 388-33-595, filed 12/23/76; Order 1068, § 388-33-595, filed 11/17/75; Order 933, § 388-33-595, filed 5/15/74; Order 791, § 388-33-595, filed 4/12/73; Order 698, § 388-33-595, filed 7/13/72; Order 534, § 388-33-595, filed 3/31/71, effective 5/1/71; Order 426, § 388-33-595, filed 1/21/70; Order 399, § 388-33-595, filed 11/5/69; Regulation 10.80, filed 6/14/66; Regulation 10.80, filed 1/24/64.]

**WAC 388-33-605 One-time grant--Notification to recipient.** The LO shall send written notice to the recipient advising him of the approval of a one-time grant, the amount thereof and the requirement(s) for which it is intended.

[Order 534, § 388-33-605, filed 3/31/71, effective 5/1/71; Regulation 10.81, filed 1/24/64.]

### Chapter 388-34 WAC

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

WAC	
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**Reviser's note:** Administrative Order 535, filed with the code reviser on March 31, 1971, purported to adopt editorial revisions to chapter 388-34 WAC relating to the eligibility and payment of public assistance to persons in institutions. Emergency Order 560, filed April 30, 1971, and Permanent Order 573, filed June 22, 1971, repealed Order 535 before its effective date of May 1, 1971.

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

388-34-060	Authorizing initial and continuing eligibility and grant—Procedures. [Regulation 11.132, filed 8/29/66; Regulation 11.132, filed 1/24/64.] Repealed by Order 759, filed 12/28/72.
388-34-065	Authorizing initial and continuing eligibility and grant—Reporting procedure between county office and state office. [Regulation 11.133, filed 1/24/64.] Repealed by Order 651, filed 2/9/72.
388-34-070	Intermediate care facility—Eligibility. [Order 323, § 388-34-070, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
388-34-072	Intermediate care facility—Determination of need for intermediate care. [Order 395, § 388-34-072, filed 10/15/69; Order 323, § 388-34-072, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
388-34-074	Intermediate care facility—Placement of recipient. [Order 395, § 388-34-074, filed 10/15/69; Order 323, § 388-34-074, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
388-34-076	Intermediate care facility—Services to be provided by operator. [Order 395, § 388-34-076, filed 10/15/69;



- 388-34-078 Order 323, § 388-34-076, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.  
Intermediate care facility—Payment standards—Rates—Procedures. [Order 562, § 388-34-078, filed 5/19/71; Order 553, § 388-34-078, filed 4/1/71; Order 467, § 388-34-078, filed 7/21/70; Order 395, § 388-34-078, filed 10/15/69; Order 377, § 388-34-078, filed 8/7/69; Order 339, § 388-34-078, filed 2/14/69; Order 323, § 388-34-078, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-080 Intermediate care facility—Payment procedures—Operator's responsibility. [Order 395, § 388-34-080, filed 10/15/69; Order 323, § 388-34-080, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-082 Intermediate care facility—Periodic review and re-evaluation. [Order 395, § 388-34-082, filed 10/15/69; Order 323, § 388-34-082, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-084 Intermediate care facility—Application from facility to provide intermediate care. [Order 395, § 388-34-084, filed 10/15/69.] Repealed by Order 651, filed 2/9/72.
- 388-34-130 Patient in psychiatric facility—Commercial home not subject to state licensing. [Regulation 11.50, filed 7/27/67; Regulation 11.50, filed 3/21/67, 8/29/66, 1/24/64.] Repealed by Order 455 (part), filed 5/18/70.

**WAC 388-34-010 Institutional living arrangements.**

(1) The standards, policies and procedures in this chapter apply to applicants and recipients in or entering public and private nursing homes, hospitals, fraternal or benevolent homes, maternity homes, commercial homes not subject to licensing, and other miscellaneous homes.

(2) The policies and procedures for processing applications, determining initial and continuing eligibility and making payments to persons in such situations are the same as those which apply to persons in their own homes except as modified herein. However, the standards for the requirements and the computation and payment of the financial need of persons in institutions differ in some respects from those for persons in their own homes. Consequently, this chapter deals with the assistance standards and special procedures for payment to and in behalf of the eligible persons in the various types of institutions.

(3) The assistance unit, when a person is in an institution for more than a temporary period, consists of the individual patient only. Legal dependents in the family home constitute a separate assistance unit.

[Regulation 11.00, filed 1/24/64.]

**WAC 388-34-015 Definitions.** (1) "Medical institution" shall mean an institution which:

(a) Was established and is operated to provide medical care, nursing care and/or convalescent care, and has the necessary professional personnel, equipment and facilities to manage the medical needs of patients on a continuing basis in accordance with accepted standards.

(b) Is staffed by professional medical or professional nursing personnel who have clear and definite responsibility to the institution in the provision of medical services to patients. The term "staffed by" shall not mean that the institution has to have resident medical or nursing staff but staff must be assigned and available to give necessary care. An institution which has a doctor who

calls once a week to "look in on people to see how they are getting along" or in which a matron can call a doctor when a person in the institution gets sick, is not "staffed by" professional personnel in this context.

(2) "Nursing care in commercial home not subject to state licensing" means nursing services in a home operating for profit with nursing care facilities for one or two persons only.

(3) "Nursing home" means a public or private licensed nursing home certified by the department to provide skilled nursing or intermediate care, or both, with which the department has entered into the appropriate agreement or agreements.

(4) "Skilled nursing care" means care provided in a facility which has been appropriately licensed and certified under the terms of the state and federal regulations including the agreement for skilled nursing home care.

(5) Deleted.

(6) "Patient" shall mean an individual who

(a) Is admitted to a medical institution on the recommendation of a physician or dentist because of illness and there is a planned medical treatment directed toward improvement in health, or palliative medical measures are required, though improvement in health or recovery cannot be expected, and

(b) Is receiving professional medical treatment, including nursing care, directed by a licensed practitioner of the healing arts, and

(c) Is free to leave at the conclusion of the treatment or at any time upon his own decision. A patient in a psychiatric hospital (JCAH approved) sixty-five years of age or over or an eligible person under 21 years of age is not affected by this provision. See chapter 388-95 WAC.

(7) "Private institution" shall mean an institution operated by nongovernmental authority and subject to the administrative control of a privately designated governing body or the proprietor(s).

(8) "Public institution" shall mean an institution authorized by law, supported in whole or in part from public funds and under the effective administrative control of a public official or a publicly appointed or elected governing body.

(9) "Psychiatric facility" or "facility" includes the two state mental hospitals, private psychiatric hospitals and general hospitals having psychiatric beds, with which the department has an agreement or contract for the care of persons sixty-five years of age and over and under 21 years of age.

(10) "Intermediate care facility" (ICF) is an institution or a distinct part of an institution which is licensed under state law and has entered into a contract with the department to provide residents thereof, on a regular basis, the range or level of care suitable to eligible recipients who because of their physical or mental condition or both require living accommodations and care which as a practical matter can be made available to them only through institutional facilities but do not have such disability as to require the degree of care which a skilled nursing home provides.

(11) "Intermediate care" means care in an intermediate care facility including institutional services.

(12) "Institutional services" means those items and services furnished by the institution in connection with providing the regular range or level of care and services suitable to the needs of a resident in an intermediate care facility. Institutional services do not include personal maintenance and necessary incidentals and clothing for which the recipient receives a cash grant or medical care provided under the regular medical program for recipients.

[Order 1044, § 388-34-015, filed 8/14/75; Order 323, § 388-34-015, filed 11/27/68; Order 249, § 388-34-015, filed 11/1/67; Regulation 11.01, filed 1/24/64.]

**WAC 388-34-020 Eligibility conditions.** (1) If otherwise eligible, a person in a nonfederal institution shall be eligible for a public assistance grant when he is a

(a) Patient in a psychiatric hospital (JCAH approved) and is either sixty-five years of age or over or under 21 years of age.

(b) Patient in a medical institution but not because of a diagnosis of psychosis (unless he qualifies under subdivision (1)(a)),

(c) Patient in a tuberculosis hospital and is eligible for continuing general assistance (see WAC 388-34-120),

(d) Resident in an intermediate care facility.

(2) A person is not eligible for a grant if he is

(a) In a federal institution,

(b) An inmate (nonpatient) in a public institution,

(c) In an institution for mental disease or in a tuberculosis hospital other than as specified in subdivisions (1)(a) and (1)(c).

[Order 1044, § 388-34-020, filed 8/14/75; Order 323, § 388-34-020, filed 11/27/68; Order 249, § 388-34-020, filed 11/1/67; Regulation 11.02, filed 1/24/64.]

**WAC 388-34-025 Eligibility conditions—Eligibility for AFDC—Child or needy relative temporarily in institution.** (1) A child temporarily in a public or private institution and otherwise eligible for aid to families with dependent children as long as he is a member of a family which maintains responsibility for his welfare according to WAC 388-24-125.

(2) The needy relative, who is responsible for the care of a child eligible for aid to families with dependent children, shall not be eligible for aid to families with dependent children when he (she) lives in a public or private institution except temporarily during which time adequate care is provided for the child.

(3) A person in a maternity home is eligible for services according to WAC 388-70-110 through 388-70-118.

[Order 759, § 388-34-025, filed 12/28/72; Order 249, § 388-34-025, filed 11/1/67; Regulation 11.03, filed 1/24/64.]

**WAC 388-34-035 Skilled nursing home care.** The local office is responsible for determining and authorizing the initial and continuing eligibility of an individual who requires skilled nursing home care.

[Order 759, § 388-34-035, filed 12/28/72; Regulation 11.10, filed 8/29/66; Regulation 11.10, filed 1/24/64.]

**WAC 388-34-040 Skilled nursing home care—Application.** The rules in chapter 388-38 WAC apply when application is made in anticipation of or after entry into a nursing home.

[Order 759, § 388-34-040, filed 12/28/72; Regulation 11.11, filed 8/29/66; Regulation 11.11, filed 1/24/64.]

**WAC 388-34-045 Skilled nursing home care—Cost standards for requirements.** (1) The cost of skilled nursing home care shall be the department's rates for the class of care needed as determined by the department's nursing care consultant or the classification of the home in which the care is given, whichever is lower, unless special authorization is given by the department's office of personal health services for a particular home to give a specified patient a class of care more costly than that at which the home is classified.

(2) Deleted.

(3) Deleted.

(4) If an individual needs less than Class II care and it is desirable to keep him in a skilled nursing home, the skilled nursing home will be paid at the intermediate care facility rate. See WAC 388-34-378.

[Order 1017, § 388-34-045, filed 4/14/75; Order 907, § 388-34-045, filed 2/14/74; Order 862, § 388-34-045, filed 10/11/73; Order 842, § 388-34-045, filed 8/9/73; Order 824, § 388-34-045, filed 7/26/73; Order 732, § 388-34-045, filed 10/27/72; Order 675, § 388-34-045, filed 5/10/72; Order 651, § 388-34-045, filed 2/9/72; Order 553, § 388-34-045, filed 4/1/71; Order 377, § 388-34-045, filed 8/7/69; Regulation 11.12, filed 2/23/67, 8/29/66, 3/31/66, 12/31/65, 1/24/64.]

**WAC 388-34-055 Skilled nursing home care—Authorization and payment.** (1) The assistance unit for purposes of authorizing payment of the requirements of a person in a nursing home is the patient only. The need of dependents shall not be "included in" or computed as part of the patient's need.

(2) The requirements for a person in a skilled nursing home shall be authorized only after the nursing care consultant has determined medical eligibility for a specific class of care and the person is determined by the department to be otherwise eligible.

(3) WAC 388-33-115 and 388-33-120 on effective date of payment apply to new and reopened cases eligible for continuing assistance grants. The effective date of a noncontinuing general assistance grant is the authorization date. See WAC 388-84-005 for effective date for FAMCO.

(4) The cost of skilled nursing home care is paid as a medical service cost by post payment to the provider.

(5) Payment for clothing and personal maintenance and necessary incidentals shall be made to the eligible grant recipient as a prepayment. See WAC 388-83-045 for FAMCO.

(6) Income of the applicant or recipient shall be applied according to WAC 388-28-500.

(7) WAC 388-88-095 through 388-88-115 apply to the placement, transfer or discharge of a nursing home patient.

[Order 759, § 388-34-055, filed 12/28/72; Regulation 11.131, filed 8/29/66; Regulation 11.131, filed 1/24/64.]

**WAC 388-34-085 Public nursing home--Definition--Grant requirements.** (1) "Public nursing home" means a licensed county (public) nursing home previously called a county infirmary. The need for care in a public nursing home shall be determined and certified by the local office.

(2) The grant requirements for a person in a public nursing home are clothing and personal maintenance and necessary incidentals.

[Order 1017, § 388-34-085, filed 4/14/75; Order 907, § 388-34-085, filed 2/14/74; Order 824, § 388-34-085, filed 7/26/73; Order 651, § 388-34-085, filed 2/9/72; Order 553, § 388-34-085, filed 4/1/71; Order 377, § 388-34-085, filed 8/7/69; Order 249, § 388-34-085, filed 11/1/67; Regulation 11.20, filed 7/24/67; Regulation 11.20, filed 2/23/67, 8/29/66, 1/24/64.]

**WAC 388-34-095 Fraternal, religious, or benevolent home.** (1) Fraternal, religious or benevolent homes operate under a variety of plans with respect to the individual. Some offer free care for life, sometimes contingent upon earlier group membership. Others offer free care covering maintenance items only without specific provisions for personal items. Some require payment in advance or transfer of all property holdings; others enter into specific individual contracts. Fraternal organizations usually have only general bylaws concerning the conduct of the person in the home rather than the relationships between the home and the individual.

(2) Fraternal, religious or benevolent homes operating as nursing homes shall be subject to department standards and rules governing nursing homes.

(3) An individual in a fraternal, benevolent or charitable home which customarily provides free, partially free or prepaid care for life, shall be eligible only when and to the extent that he can establish need, including the necessity for him to make payments to the home.

(4) Assistance may be granted to an otherwise eligible individual receiving life care under a contract or agreement which specifically excludes items in the standards only to the extent required to purchase such requirements. The individual must provide evidence substantiating need for the item; for example, a copy of an individual contract with the home; specific citations to governing rules of the organization; or official statements or resolutions of the governing authority or board specifically setting forth the limitations of the individual's right to free care. A written statement signed by the proper authorities of the home requesting and confirming the applicant's obligation to make payment, including the citation of a properly adopted statement or resolution of the governing board setting forth the limitations of the home's obligation to provide care without payment also serves as substantiating financial need.

(5) A person who voluntarily cancels a contract for life care shall not be eligible until he produces satisfactory evidence to prove that the value of the care received equaled the value of the consideration paid for the life care contract. The home's average monthly operating cost per guest, exclusive of capital outlay, depreciation,

interest on investments and similar costs as agreed upon by the local office and the home, shall be used to determine whether the care received by the individual equaled the lump sum payment or value of the property he transferred to the home.

(6) See WAC 388-34-045 for costs of requirements to determine financial need of an applicant in a skilled nursing unit of a fraternal or benevolent institution.

(7) See WAC 388-29-260 through 388-29-270 for requirements of a person living in a fraternal or religious home on a board and room basis.

[Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-34-095, filed 9/18/78; Order 651, § 388-34-095, filed 2/9/72; Order 377, § 388-34-095, filed 8/7/69; Order 249, § 388-34-095, filed 11/1/67; Regulation 11.30, filed 8/29/66; Regulation 11.30, filed 1/24/64.]

**WAC 388-34-110 General hospital--Grants requirements.** (1) The grant requirements in a public or private general hospital shall be clothing, personal maintenance and necessary incidentals.

(2) Deleted.

(3) Other institutional costs are authorized and paid as a vendor medical payment.

[Order 1017, § 388-34-110, filed 4/14/75; Order 917, § 388-34-110, filed 3/14/74, 3/18/74; Order 824, § 388-34-110, filed 7/26/73; Order 651, § 388-34-110, filed 2/9/72; Order 553, § 388-34-110, filed 4/1/71; Order 377, § 388-34-110, filed 8/7/69; Order 249, § 388-34-110, filed 11/1/67; Regulation 11.41, filed 7/27/67; Regulation 11.41, filed 2/23/67, 8/29/66, 1/24/64.]

**WAC 388-34-120 Tuberculosis hospital--Grant requirements.** (1) General assistance may be granted to a person otherwise eligible living in a tuberculosis hospital.

(2) The grant requirements shall be clothing, personal maintenance and necessary incidentals.

[Order 1017, § 388-34-120, filed 4/14/75; Order 917, § 388-34-120, filed 3/14/74, 3/18/74; Order 824, § 388-34-120, filed 7/26/73; Order 651, § 388-34-120, filed 2/9/72; Order 377, § 388-34-120, filed 8/7/69; Order 553, § 388-34-120, filed 4/1/71; Order 249, § 388-34-120, filed 11/1/67; Regulation 11.42, filed 7/27/67, 2/23/67, 1/4/67, 8/29/66, 1/24/64.]

**WAC 388-34-125 Psychiatric hospital (JCAH approved)--Standards for requirements.** (1) The grant requirements in a public or private psychiatric hospital shall be clothing, personal maintenance and necessary incidentals.

(2) The monthly cost standard for clothing and personal maintenance and incidentals shall be as stated in WAC 388-29-125 (see WAC 388-95-215(5)).

[Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-34-125, filed 9/18/78; Order 1044, § 388-34-125, filed 8/14/75; Order 824, § 388-34-125, filed 7/26/73; Order 651, § 388-34-125, filed 2/9/72; Order 553, § 388-34-125, filed 4/1/71; Order 377, § 388-34-125, filed 8/7/69; Order 249, § 388-34-125, filed 11/1/67.]

**WAC 388-34-140 Maternity services.** Maternity services are purchased for an eligible unmarried pregnant woman as provided in WAC 388-70-110 through 388-70-118.

[Order 688, § 388-34-140, filed 6/15/72; Order 434, § 388-34-140, filed 3/31/70; Regulation 11.60, filed 3/31/66; Regulation 11.60, filed 6/24/64, 1/24/64.]

**WAC 388-34-150 Other homes.** (1) The standards for requirements in WAC 388-29-260 through 388-29-270 shall apply to an applicant or recipient in:

- (a) A nursing home in another state
- (b) A home subject to licensing as a nursing home by the state of Washington but lacking a state department of health license or provisional license
- (c) A private nursing home licensed by the Washington department of health which is not classified by the SDPA for purposes of establishing rates of payment to needy persons.

(2) A licensed but unclassified nursing home does not use the SF 8706 to report the admission and dismissal of recipient patients. The division of medical care periodically furnishes the CO with a list of unclassified homes.

[Statutory Authority: RCW 74.08.090, 78-10-036 (Order 1338), § 388-34-150, filed 9/18/78; Regulation 11.70, filed 8/29/66; Regulation 11.70, filed 1/24/64.]

**WAC 388-34-160 Grant change--Admittance to institution other than nursing home.** (1) When a recipient enters an institution other than a licensed and classified private nursing home the CSO may use any payment process which the CSO determines to be the most practical under the circumstances. Such payment process may consist of recomputation or suspension of the regular grant, redirection and cancellation of warrants, one-time grant, or any combination of the preceding. Medical costs, in addition to grant need, may also be taken into consideration in determining suspension or termination.

(2) Supplemental assistance for general maintenance or general subsistence if needed from date of admission to effective date of regular grant change shall be authorized and paid to the recipient as a one-time grant. The funds in the recipient's possession from his regular assistance warrant for the month he enters, and/or any unused income, is considered available to meet need. See WAC 388-33-595 (2)(b)(iv).

(3) When an adult recipient (OAA, DA, AB, GAU) enters an institution and there is another adult in the assistance unit, separate grants from the appropriate program shall be established for each adult. Minor children dependent on the adults shall be included in the assistance unit of the adult not in the institution.

When an assistance unit is "split" the effective date of the grant to each assistance unit shall be synchronized to avoid overpayment.

(4) If a recipient in an institution dies before receiving or being able to endorse a warrant already authorized and due him and owes for general maintenance or general subsistence, the previously authorized warrant shall be canceled and the amount due shall be paid as a vendor payment from the category in which the canceled warrant was written. See WAC 388-33-460.

The amount due shall be that portion of the cancelled warrant actually owed by the recipient less any funds the recipient has on deposit with the vendor.

[Statutory Authority: RCW 74.08.090, 83-10-077 (Order 1958), § 388-34-160, filed 5/4/83; 78-10-036 (Order 1338), § 388-34-160, filed 9/18/78; Regulation 11.80, filed 1/24/64.]

**WAC 388-34-165 Grant change--Discharge from institution other than licensed nursing home.** (1) When a recipient leaves an institution other than a licensed and classified nursing home the CO shall certify on SF 5822-M recomputation of grant, reinstatement of suspended grant, or termination.

(2) If recomputation is certified the effective date for increase or decrease in WAC 388-33-140 applies. If supplemental assistance is needed from date of dismissal to effective date of change in regular grant, the amount shall be authorized and paid as a one-time grant. (See WAC 388-33-595 (2)(b)(v)).

(3) If reinstatement of grant is authorized see WAC 388-33-120(4) for effective date of grant.

[Regulation 11.81, filed 6/14/66; Regulation 11.81, filed 1/24/64.]

**WAC 388-34-180 Notification of grant authorization and change in grant.** (1) An applicant or recipient in a home or facility subject to chapter 388-34 WAC shall be notified in writing when a grant or change in grant is authorized for payment to him or in his behalf. The written notification shall specify:

- (a) The monthly allowance for his requirements, excluding the cost of care in an institution or home,
  - (b) His monthly income and resources available to meet his requirements,
  - (c) The amount of the monthly grant,
  - (d) The date of eligibility for care and payment of assistance begins,
  - (e) The amount he is to pay from his income and resources toward the cost of his care in the institution or home,
  - (f) The right to a fair hearing.
- (2) WAC 388-33-380 is also applicable when the grant to such person is suspended or terminated.

[Order 312, § 388-34-180, filed 10/31/68; Regulation 11.90, filed 1/24/64.]

**WAC 388-34-370 Intermediate care--Eligibility conditions.** (1) For definition of "intermediate care facility" (ICF) see WAC 388-34-015(10).

(2) To be eligible for assistance in an intermediate care facility a recipient must:

(a) Require living accommodations and care which as a practical matter can be available to him only through institutional facilities, and

(b) Not have such disability as to require the degree of care and treatment which a hospital or skilled nursing home at the Class I or II level of care is designed to provide, and

(c) Be eligible for a federal aid grant, continuing general assistance, or medical assistance.

[Order 701, § 388-34-370, filed 7/27/72; Order 651, § 388-34-370, filed 2/9/72.]

**WAC 388-34-372 Intermediate care--Determination of need for intermediate care.** (1) The determination of a person's need for intermediate care is based on mutual planning with him and his family, as feasible, and on the service worker's assessment of his needs. Any question of the individual's need for care in a nursing

care facility must be resolved prior to placement in an intermediate care facility by clearance with the medical consultant or the nursing care consultant. All alternate care which might meet his needs shall have consideration (see WAC 388-16-300 through 388-16-330).

(2) On initial placement medical information shall be secured to establish the presence or extent of physical problems. Such information may be contained in reports from state hospitals, or schools for the retarded, or secured from physicians. To help in determining need for care this medical information is essential for persons having health needs which require visits to the physician, special diets, and/or taking of medications.

(3) The service worker shall consult with the nursing care consultant who has primary responsibility for determining if the person needs skilled nursing care rather than intermediate care. The nurse will serve, when indicated, as a consultant regarding the individual's medical needs, medical information, and medical resources in the community.

[Order 701, § 388-34-372, filed 7/27/72; Order 440, § 388-34-372, filed 4/15/70.]

**WAC 388-34-374 Intermediate care--Placement of recipient.** (1) The service worker has responsibility for case management and social services which includes placement and replacement of the recipient.

(2) The need for intermediate care must be agreed to by the recipient. The selection of the facility is the responsibility of the recipient, his relatives, guardian, or attending physician or Christian Science practitioner, with assistance from the service worker in preplacement planning.

(3) The service worker shall assume responsibility for selecting the home only when the recipient is incapable of making the selection and there is no other responsible person to make the selection in his behalf.

(4) The placement of a recipient in an ICF must have prior approval by the local office. However, in case of the emergency admission of a recipient to a home when the local office is not open, the local office must be notified by the home the morning of the first local office working day following the emergency admission. The fact of the emergency existed must be established to enable the department to pay for the care from the date of admission.

(5) The operator must send immediate written notification to the local office on Form 15PA28F, Notice of action, of the date of admission of any recipient. Payment for the recipient's care will not be authorized until receipt of this written notification.

(6) The operator must report discharge or death of a resident on Form 15PA28F.

(7) Out-of-county placement of a recipient may be made at the request of the recipient or his relatives, or when there is no available intermediate care facility in the county of residence.

[Order 440, § 388-34-374, filed 4/15/70.]

(1986 Ed.)

**WAC 388-34-375 Intermediate care--Absence for social reasons.** (1) The facility shall notify the local office immediately on the prescribed form when a recipient is to be absent from the facility for more than 24 hours for social reasons.

(2) The facility shall immediately contact the local office for approval of a plan for a recipient to be absent for more than 36 hours for social reasons. Local office approval of an absence of more than 4 days shall be in writing. A state office approved exception to rule shall be secured for absences of more than seven calendar days.

(3) The facility shall not discharge a recipient whose absence for social reasons has been approved by the department. Payment is made for the days of approved absence.

[Order 867, § 388-34-375, filed 10/26/73.]

**WAC 388-34-376 Intermediate care--Services to be provided by operator.** The operator of the facility shall provide the following protective and personal care services:

(1) Offer understanding, encouragement and emotional support to the recipient toward taking more responsibility for himself; i.e., keeping self neat and clean, wearing appropriate clothing, coming to meals, keeping room clean and orderly, and other minor tasks.

(2) Activities, including social and recreational activities, involving active participation by the recipient and opportunities for community activities as possible and appropriate, including encouragement and help in seeking, obtaining and keeping employment if the resident is not a recipient of OAA.

(3) Assistance with shopping and correspondence as necessary.

(4) Necessary supervision for the recipient whose mental condition is such that his personal safety requires this.

(5) Opportunity to participate in religious activities of the recipient's own choice.

(6) Under direction of the recipient's physician, guidance and assistance for each recipient in carrying out his personal health program.

(7) Arrangements for services of a physician in the event of an emergency when the recipient's own physician cannot be reached;

(8) Whenever a recipient is sick notifying a physician immediately. If the recipient remains in the facility, the facility shall be responsible for providing temporary care. Care during a temporary illness shall be limited to the type of care ordinarily given in a private home and of a duration not to exceed fourteen days.

(9) Maintaining an individual health record for each resident including

(a) Name, address, and telephone number of relative or responsible person, and the name, address, and telephone number of his physician;

(b) The physician's written instructions and recommendations for care of the recipient;

(c) All symptoms and other indications of illness, injury, or changed behavior brought to the attention of the

staff by the recipient, or from other sources, including the date, time, and action taken regarding each.

[Order 440, § 388-34-376, filed 4/15/70.]

**WAC 388-34-378 Intermediate care--Grant requirements--Procedures.** (1) Intermediate care is paid from medical care program funds as a vendor post-payment in behalf of the recipient. The individual must be eligible for public assistance or meet the eligibility standards of the medical care program.

(2) Deleted.

(3) The grant requirements of a person in an intermediate care facility shall be clothing and personal maintenance and necessary incidentals.

(4) All nonexempt income shall be applied first to the requirements specified in subsection (3). Any remaining income is applied to reduce the vendor payment. See WAC 388-22-030(34) for definitions of income.

(5) Payment for care of eligible persons shall be made only for day(s) of care certified by the authorized local office staff. Payment is made for the day of admission, but will not be made for the day of death, discharge or transfer from the intermediate care facility, provided that for any resident admitted there shall be a minimum one-day payment.

(6) Payment for the care of a private resident who becomes eligible for public assistance while in an intermediate care facility shall begin on the date authorized by the department's local office.

(7) An administrator of an intermediate care facility shall not receive or accept money from or on behalf of a recipient in excess of the amount properly payable for the basic cost of intermediate care.

(8) Violation of subsection (7) of this rule will subject the home to termination of the intermediate care agreement. Evidence that an administrator solicited or accepted payment for intermediate care in excess of the amount payable according to the department's payment standards shall be immediately discussed with the administrator by the appropriate local office staff. If the problem cannot be resolved by the local office, the facts should be sent by memorandum to the state office of personal health services.

[Order 1017, § 388-34-378, filed 4/14/75; Order 907, § 388-34-378, filed 2/14/74; Order 862, § 388-34-378, filed 10/11/73; Order 842, § 388-34-378, filed 8/9/73; Order 824, § 388-34-378, filed 7/26/73; Order 732, § 388-34-378, filed 10/27/72; Order 716, § 388-34-378, filed 9/14/72; Order 675, § 388-34-378, filed 5/10/72; Order 651, § 388-34-378, filed 2/9/72; Order 440, § 388-34-378, filed 4/15/70.]

**WAC 388-34-380 Intermediate care--Payment procedures--Operator's responsibility.** (1) It is the operator's responsibility to collect from the recipient that portion of the cost of care the recipient is required to pay. The department's local office shall notify the operator of the amount for which the recipient is responsible.

(2) If it is determined that the recipient no longer needs or can use intermediate care, the service worker is responsible for working out a new living arrangement with the recipient.

[Order 440, § 388-34-380, filed 4/15/70.]

**WAC 388-34-384 Intermediate care--Application to provide intermediate care.** (1) A facility wishing to provide intermediate care must have a valid license from the department's health division as a boarding home for the aged (and infirm) or as a nursing home.

(2) To apply for approval of payment for intermediate care the facility shall contact the local office and sign Form 10PA23, application for approval for payment--intermediate care facility, in duplicate. The local office service worker will:

(a) Establish a case record for the facility,

(b) Visit the premises,

(c) Discuss the intermediate care facility agreement in detail with the operator,

(d) Explain the use of Form 15PA28F, Notice of action, and Forms 8731 and 8731-A,

(e) Make sure that the operator will have adequate supervisory staff, not from the resident population, on the premises at all times,

(f) Join with the manager, owner or operator in signing Form 10PA22S to testify to the explanation given by the service worker,

(g) If the local office approves the application, have the facility sign two copies of the intermediate care facility agreement and two copies of Form 6PA44, authorization for voucher signature,

(h) Note local office approval on Form 10PA23 and send both copies with both copies of the signed intermediate care facility agreement, Form 6PA44, and Form 10PA22S to the state office adult programs unit,

(i) Placement in the facility may begin when all forms for the approved application have been sent to the state office.

(3) If the local office does not approve the application, the service worker explains the reasons fully to the applicant. If the applicant wishes to sign the intermediate care facility agreement he may do so. If he does, two copies of Form 6PA44 are also signed. The service worker sends all forms as for an approved application to the state office adult programs unit with a memorandum of explanation. The state office notifies the facility of the decision.

If after an explanation of the reasons a local office will not approve an application, the facility withdraws its application to provide intermediate care, no further action is taken by the local office.

(4) The signature of the assistant secretary on the agreement will constitute department approval. A copy of Form 10PA23 and a copy of the agreement are sent to the facility.

(a) An agreement is valid for one year from the date of department signature, except when either the local office or the facility elects a shorter period,

(b) A new agreement must be received in the state office no later than one month after the expiration date of the previous agreement. If not, it will be necessary to hold the vouchers for the facility until the new agreement is received,

(c) A new agreement is required when there is a change in ownership of the facility.

(5) An agreement is terminated when it is revoked by the department or the facility closes.

(a) Revocation shall be considered only when abuses are flagrant and residents are not receiving services as provided in the agreement.

(b) The local office shall send specific current facts supporting revocation to the state office adult program section for action.

(6) The service worker shall visit the facility at appropriate intervals, but no longer than every six months, with or without the nursing care consultant, to review and when necessary, help upgrade the standards of personal and social care.

[Order 867, § 388-34-384, filed 10/26/73; Order 627, § 388-34-384, filed 10/24/71; Order 440, § 388-34-384, filed 4/15/70.]

### Chapter 388-37 WAC

#### GENERAL ASSISTANCE--ELIGIBILITY-- STANDARDS OF ASSISTANCE--PAYMENT

##### WAC

388-37-010	Continuing general assistance—Exclusions.
388-37-020	Continuing general assistance—Eligibility conditions—General.
388-37-025	Earned income exemption.
388-37-030	Continuing general assistance—Eligible persons.
388-37-031	Continuing general assistance—Payment to employable spouse.
388-37-032	Continuing general assistance—Determination of incapacity.
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388-37-038	Incapacity—Waiver of medical documentation.
388-37-040	Continuing general assistance—Standards for requirements—Authorization.
388-37-050	Continuing general assistance—Redetermination of eligibility.
388-37-060	Congregate care—Alcoholism treatment.
388-37-100	Progressive evaluation process.
388-37-110	Determination of severity—General definitions.
388-37-115	Progressive evaluation process Step I—Review of medical documentation.
388-37-120	Progressive evaluation process Step II—Severity of mental impairments.
388-37-130	Progressive evaluation process Step III—Severity of physical impairments.
388-37-135	Alcoholism/drug addiction.
388-37-140	Progressive evaluation process Step IV—Multiple impairments.
388-37-150	Progressive evaluation process Step V—Functional capacities—Mental impairments.
388-37-160	Progressive evaluation process Step V—Functional capacities—Physical impairments.
388-37-170	Evaluation of vocational factors for Steps VI and VII.
388-37-180	Progressive evaluation process Step VI—Evaluation of capacity to perform past work.
388-37-190	Progressive evaluation process Step VII—Assessment of capacity to perform other work.

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

388-37-034	Continuing general assistance—Local office review of incapacity. [Order 943, § 388-37-034, filed 6/28/74; Order 904, § 388-37-034, filed 1/31/74.] Repealed by Order 1102, filed 3/2/76.
388-37-036	Incapacity—Functional, mental, and emotional disorders. [Statutory Authority: RCW 74.08.090. 83-08-

388-37-210	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. Noncontinuing general assistance—Eligible persons. [*Order 1085, § 388-37-210, filed 1/15/76; Emergency Order 1073, § 388-37-210, filed 12/12/75 (Emergency Order 1073 repealed WAC 388-37-210, which was then readopted, as amended, by Order 1085, filed 1/15/76); Order 969, § 388-37-210, filed 9/13/74; Order 939, § 388-37-210, filed 5/23/74; Order 904, § 388-37-210, filed 1/31/74; Order 841, § 388-37-210, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.
388-37-215	Noncontinuing general assistance—Specific eligibility conditions. [Order 1173, § 388-37-215, filed 11/24/76; Order 973, § 388-37-215, filed 9/26/74; Order 841, § 388-37-215, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.
388-37-220	Noncontinuing general assistance—Requirements. [Order 1242, § 388-37-220, filed 9/23/77; Order 1145, § 388-37-220, filed 8/26/76; Order 1040, § 388-37-220, filed 8/7/75; Order 904, § 388-37-220, filed 1/31/74; Order 841, § 388-37-220, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.
388-37-230	Noncontinuing general assistance—Exempt and non-exempt resources and income. [Statutory Authority: RCW 74.08.090. 78-06-022 (Order 1294), § 388-37-230, filed 5/16/78; Order 841, § 388-37-230, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.
388-37-235	Noncontinuing general assistance—Computing income. [Order 841, § 388-37-235, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.
388-37-240	Noncontinuing general assistance—Utilization of resources and income. [Order 841, § 388-37-240, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.
388-37-245	Noncontinuing general assistance—Effective date of eligibility. [Order 841, § 388-37-245, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.
388-37-250	Noncontinuing general assistance—Grant period. [Order 841, § 388-37-250, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.
388-37-255	Noncontinuing general assistance—Authorization and reauthorization of grant. [Order 841, § 388-37-255, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.
388-37-260	Noncontinuing general assistance—Notification to recipient. [Order 841, § 388-37-260, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.
388-37-265	Noncontinuing general assistance—Payment of grant. [Order 841, § 388-37-265, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.
388-37-270	Noncontinuing general assistance—Vendor payment. [Order 841, § 388-37-270, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090.

\*Reviser's note: The statutory authority for the amendment to WAC 388-37-210 in department of social and health services Order 1126, filed 6/23/76, was declared unconstitutional and void by the Supreme Court in *Flanders v. Morris* 88 Wn.2d 181 (1977). WAC 388-37-210 as filed on 1/15/76 by Order 1085 was outstanding prior to Order 1126. See repealed citation above.

**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. The state cannot be reimbursed for any GA-U authorized during the time period these payments cover.

(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, 86-11-021 (Order 2374), § 388-37-010, filed 5/14/86; 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 388-37-020 Continuing general assistance—Eligibility conditions—General.** (1) An applicant or recipient shall be a resident of the state of Washington as defined in WAC 388-26-055 and be living in an identifiable residence within the local office area.

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

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

(4) Continuing general assistance follows financial need determination as provided in provisions of chapter 388-28 WAC, except wherever income and resource rules differ for continuing general assistance and AFDC, any individual applying for or receiving continuing general assistance on the basis of pregnancy, shall have her eligibility determined according to AFDC income and resource rules.

[Statutory Authority: RCW 74.08.090, 83-21-012 (Order 2034), § 388-37-020, filed 10/6/83; 81-12-045 (Order 1661), § 388-37-020, filed 6/3/81; 78-10-031 (Order 1337), § 388-37-020, filed 9/15/78; Order 1251, § 388-37-020, filed 11/10/77; Order 841, § 388-37-020, filed 8/9/73.]

**WAC 388-37-025 Earned income exemption.** (1) The first eighty-five dollars plus one-half the remainder of total gross monthly earned income shall be exempt in determining eligibility for and the amount of assistance for incapacitated recipients of continuing general assistance.

(2) Earned income exemptions for pregnant recipients of continuing general assistance shall be determined in accordance with AFDC rules.

[Statutory Authority: RCW 74.08.090, 83-21-012 (Order 2034), § 388-37-025, filed 10/6/83; Order 1251, § 388-37-025, filed 11/10/77.]



**WAC 388-37-030 Continuing general assistance--Eligible persons.** When other eligibility has been established, continuing general assistance shall be granted to:

(1) 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 388-37-031 Continuing general assistance--Payment to employable spouse.** When it has been verified by a physician that it is medically necessary for an employable spouse to be present in the home to care for

the incapacitated spouse payment shall be made to the employable spouse.

[Statutory Authority: RCW 74.08.090. 81-12-045 (Order 1661), § 388-37-031, filed 6/3/81; Order 1102, § 388-37-031, filed 3/2/76.]

**WAC 388-37-032 Continuing general assistance--Determination of incapacity.** (1) Eligibility due to incapacity shall be determined by 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 unemployability 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 388-37-037 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 388-38 WAC APPLICATION

WAC	
388-38-010	Definitions.
388-38-030	Application—Department responsibility.
388-38-040	Application—Recording and documenting.
388-38-045	Applicant responsibility for providing information.
388-38-050	Alteration or addition to forms.
388-38-08501	Trial visit.
388-38-110	Time limit for disposal.
388-38-120	Disposal actions.
388-38-150	Application approved—Notice.
388-38-172	Application denied or withdrawn—Notice.
388-38-200	Verifying eligibility and re-eligibility.
388-38-220	Verification of citizenship.
388-38-225	Verification of lawful admission for permanent residence in United States.

388-38-230	Verification of permanent residence in United States under color of law.
388-38-250	Responsibility for eligibility maintenance.
388-38-255	Responsibility for eligibility maintenance—Recipient.
388-38-260	Responsibility for eligibility maintenance—Local office.
388-38-265	Recipient's whereabouts unknown or failure to provide eligibility data.
388-38-270	Redirection of warrant.
388-38-280	Periodic review and redetermination of eligibility.
388-38-285	Content of review.
388-38-290	Action on review.
388-38-295	Changing and terminating grant.

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-38-020	Inquiry. [Regulation 13.10, filed 1/24/64.] Repealed by Order 537, filed 3/31/71, effective 5/1/71.
388-38-035	Application registration. [Regulation 13.21, filed 1/24/64.] Repealed by Order 537, filed 3/31/71, effective 5/1/71.
388-38-060	Application—Prior to specified events. [Order 537, § 388-38-060, filed 3/31/71, effective 5/1/71; Regulation 13.24, filed 1/24/64.] Repealed by Order 973, filed 9/26/74.
388-38-070	Person being paroled or released from state correctional institution. [Order 943, § 388-38-070, filed 6/28/74; Order 537, § 388-38-070, filed 3/31/71, effective 5/1/71; Regulation 13.25, filed 1/24/64.] Repealed by Order 1195, filed 3/3/77.
388-38-080	Person in state mental hospital or institution for mentally retarded. [Order 537, § 388-38-080, filed 3/31/71, effective 5/1/71; Regulation 13.26, filed 1/24/64.] Repealed by Order 1165, filed 10/27/76.
388-38-085	Applicant requiring placement in licensed and classified nursing home or at Oakhurst Infirmary. [Regulation 13.261, filed 1/24/64.] Repealed by Order 537, filed 3/31/71, effective 5/1/71.
388-38-090	Applicant requiring other type of placement. [Regulation 13.262, filed 1/24/64.] Repealed by Order 537, filed 3/31/71, effective 5/1/71.
388-38-100	Disposal of application. [This reference only section is being repealed inasmuch as § 388-38-100 was deleted from Order 537, filed 3/31/71, effective 5/1/71.]
388-38-140	Notification of decision. [Regulation 13.40, filed 1/24/64.] Repealed by Order 313, filed 10/31/68.
388-38-160	Withdrawn application. [Regulation 13.42, filed 1/24/64.] Repealed by Order 313, filed 10/31/68.
388-38-170	Denial of application. [Regulation 13.43, filed 1/24/64.] Repealed by Order 313, filed 10/31/68.
388-38-180	Intercounty transfer of application. [Regulation 13.50, filed 1/24/64.] Repealed by Order 537, filed 3/31/71, effective 5/1/71.

**WAC 388-38-010 Definitions.** (1) "Application" means a form designated by the department as a request for financial and/or medical assistance completed and submitted to the department according to WAC 388-38-040.

(2) "Date of application" means the date a completed request form referred to in subsection (1) of this section is received by the department.

(3) "Financial assistance" means a grant payment in the form of a warrant to an eligible recipient.

(4) "Inquiry" means a request for information about the department or its services or about eligibility requirements for assistance.

(5) "Reapplication" means, for the purposes of this chapter, an application is filed by an individual within a

thirty-day period after the individual's grant termination.

(6) "Statements in support of the application" means application forms and any verifying documentation acceptable under department rules which apply to the particular situation.

[Statutory Authority: RCW 74.08.090, 86-11-060 (Order 2380), § 388-38-010, filed 5/21/86; 81-17-028 (Order 1693), § 388-38-010, filed 8/12/81; Order 1101, § 388-38-010, filed 2/25/76; Order 537, § 388-38-010, filed 3/31/71, effective 5/1/71; Regulation 13.01, filed 7/27/67; Regulation 13.01, filed 1/24/64.]

**WAC 388-38-030 Application--Department responsibility.** (1) An application shall be accepted from anyone wishing to apply and shall be acted upon promptly. An application may be made by:

(a) The person making the request in the person's own behalf or for the person's dependent;

(b) The legal guardian or person otherwise legally eligible to make application on behalf of minors or incompetent persons;

(c) Any other person acting in behalf of the applicant when the individual cannot make application under one of the preceding methods. Such person shall indicate the reason for initiating the application.

(2) Each applicant shall be treated with dignity and courtesy, shall be given sufficient opportunity to make his or her pertinent needs known to the department, and to learn what the department can or cannot do for him or her.

(3) Each applicant shall be fully informed of his or her legal rights and responsibilities in connection with public assistance.

(4) Eligibility or ineligibility shall be determined on a factual and objective basis in accordance with the rules and procedures of the department.

(5) Pertinent facts shall be recorded about each application so that records can be audited to determine whether department policies have been followed, continuity of service can be carried out, case planning can be achieved, and services needed and given can be ascertained.

(6) The decision on applications is definite and conclusive and is made known to the applicant together with the reasons for the decision. (See WAC 388-38-150 and 388-38-172.)

(7) Each applicant shall be given a pamphlet entitled "Fair hearings are for you." Each applicant shall receive a brief explanation of rights and procedures in regard to fair hearings.

(8) Each applicant shall be given a written acknowledgement of receipt of the application by the department at the time of making application.

[Statutory Authority: RCW 74.08.090, 86-11-060 (Order 2380), § 388-38-030, filed 5/21/86; Order 605, § 388-38-030, filed 9/22/71; Order 537, § 388-38-030, filed 3/31/71, effective 5/1/71; Regulation 13.20, filed 1/24/64.]

**WAC 388-38-040 Application--Recording and documenting.** (1) The applicant's written request for financial and/or medical assistance shall be made on a form designated by the department. Such form shall be as

brief as administratively feasible and seek only information ordinarily known to an individual.

(2) In addition to the request form specified in subsection (1) of this section, the applicant's written statement of application for financial assistance shall be made on forms designated by the department. Forms designated for reapplications may be different from those designated for applications.

(3) The department shall assist an applicant in the completion of application forms specified in subsections (1) and (2) of this section when an applicant's need for such assistance is reasonable.

(4) The applicant's written statement of application must include all children under nineteen years of age as specified in WAC 388-24-040 living in the home who are full brothers or full sisters, or half brothers or half sisters, or stepbrothers or stepsisters whether or not financial assistance is being requested for all of the children. Total resources and income available for all such children and their parents or stepparents in the home must be declared by the person applying in behalf of the children.

(5) An application shall contain a written declaration that is made under penalties of perjury and such declaration shall be in lieu of any oath otherwise required, and each applicant shall be so informed at the time of the signing.

(6) Application for a grant must always be made before investigation is undertaken. Application is made in person at the local office but may be taken in the applicant's home when necessary.

(7) The form designated by the department as a request for financial and/or medical assistance as provided in subsection (1) of this section shall be signed by the applicant. All other forms involving an application shall be signed by the applicant and his or her spouse if living together. The foregoing applies irrespective of whether the spouse is included in the application as a dependent.

(8) A signature by mark requires two witnesses. The signatures of witnesses shall appear on the form and be identified as witnesses.

[Statutory Authority: RCW 74.08.090, 86-11-060 (Order 2380), § 388-38-040, filed 5/21/86; Order 943, § 388-38-040, filed 6/28/74; Order 537, § 388-38-040, filed 3/31/71, effective 5/1/71; Regulation 13.22, filed 1/24/64.]

**WAC 388-38-045 Applicant responsibility for providing information.** (1) Each applicant must complete and submit application forms as provided in WAC 388-38-040, including other statements in support of application as provided in WAC 388-38-200.

(2) The applicant shall be allowed a reasonable time of not less than ten calendar days to provide statements in support of the application. The department shall extend the time when:

(a) The applicant has provided some, but not all, of the available information. In such cases, the applicant shall be provided written notification of the specified information still required and shall be allowed an additional ten calendar days, or a longer time depending upon the specific circumstances; or

(b) The department, having previously completed the initial interview or requested specific information, subsequently determines the need for different or additional information. In such cases, the applicant shall be provided written notification of the specific additional information required and be allowed an additional ten calendar days, or a longer time depending upon the specific circumstances; or

(c) The applicant, at any time prior to disposal action as provided in WAC 388-38-120, reasonably requests, orally or in writing, additional time to provide statements in support of the application.

(3) When the applicant fails to provide requested statements within the initially specified or extended period, as provided in subsection (2) of this section, the department shall:

(a) Evaluate all available information, and

(b) Determine eligibility for financial assistance according to applicable rules in WAC 388-38-120.

[Statutory Authority: RCW 74.08.090. 86-11-060 (Order 2380), §

388-38-045, filed 5/21/86.] **WAC 388-38-050 Alteration or addition to forms.** A change may be made on a signed application for assistance only when the incorrect entry is stricken and the corrected entry initialed by the applicant and dated. An addition shall be also initialed by the applicant.

[Order 978, § 388-38-050, filed 10/28/74; Repealed by Order 943, filed 6/28/74; Order 537, § 388-38-050, filed 3/31/71, effective 5/1/71; Regulation 13.23, filed 1/24/64.]

**WAC 388-38-08501 Trial visit.** (1) Persons in state institutions other than adult correctional institutions, are provided an opportunity to visit outside the institution as part of their treatment program. When a person needs public assistance in order to make a trial visit, the rules in this section apply.

(2) An application for assistance shall be completed and eligibility shall be determined before a trial visit is begun.

(3) A trial visit shall be limited to a maximum of 30 days. An extension of time beyond 30 days removes the person from trial visit status.

[Order 873, § 388-38-085 (codified as WAC 388-38-08501), filed 11/16/73.]

**WAC 388-38-110 Time limit for disposal.** (1) The time limit from the date of application to the date of disposal action as specified in WAC 388-38-120(4) is thirty days for AFDC and forty-five days for GA. In applying this rule, the day application is made is not counted. Each application shall be acted upon as quickly as possible, and within applicable time limits unless exceptional circumstances constituting good cause in an individual case require a longer period of time. Exceptional circumstances, subject to rules in subsection (2) of this section, considered good cause for delay in disposing of an application include, but are not limited to, the following:

(a) The applicant fails to provide requested verification within ten days of a written request;

(b) Eligibility decisions depend on medical reports and there is delay in obtaining such reports from the examining doctor or in securing medical information;

(c) Eligibility depends upon correspondence because of out-of-state or intercity contacts and no other verification is available for the eligibility factor;

(d) Eligibility depends upon extensive property appraisals.

(2) For AFDC, when one or more exceptional circumstances exist as specified in subsection (1) of this section, good cause for delay in processing an application exists only if all the following conditions have been met:

(a) The department has notified the applicant in writing within twenty days of the date of application of each specific piece of information needed for processing the application; and

(b) In the cases where the department, subsequent to requesting the applicant provide information, determined the need for additional information or action, the department has notified the applicant in writing of the specific information or action needed within five calendar days of the date such need became known to the department; and

(c) The department determined eligibility and disposed of the application within five calendar days of the date the department received information necessary to determine eligibility; and

(d) The department determined whether or not good cause for delay exists and documented such determination in the case record on or before the date the time limit for processing the application expired.

(3) Applications for medical assistance will be disposed of in accordance with WAC 388-84-105 and 388-84-110.

(4) For applications submitted in intensive applicant employment services demonstration project areas by persons not exempt from participation under WAC 388-57-095, the date of authorization is the day following termination of participation in the intensive applicant employment services, but shall be no later than thirty days after the date of application unless subsection (1)(a) through (d) of this section is applicable.

[Statutory Authority: RCW 74.08.090. 86-11-060 (Order 2380), § 388-38-110, filed 5/21/86; 82-07-026 (Order 1779), § 388-38-110, filed 3/11/82; 81-17-028 (Order 1693), § 388-38-110, filed 8/12/81; Order 1165, § 388-38-110, filed 10/27/76; Order 943, § 388-38-110, filed 6/28/74; Order 537, § 388-38-110, filed 3/31/71, effective 5/1/71; Regulation 12.31, filed 1/24/64.]

**WAC 388-38-120 Disposal actions.** An application for financial assistance shall be disposed of by:

(1) Approval, that is, determination that the applicant is eligible for assistance;

(2) Denial, that is, determination that the applicant is ineligible for assistance, or that verifying information sufficient to establish eligibility is lacking: *Provided*, That:

(a) A delay in obtaining medical information which is beyond the control of both the applicant and the department, when said information is essential to a determination of eligibility, shall not be the basis for denial of financial assistance.

(b) When an applicant fails to provide requested statements in support of application within an initially specified or extended period, as provided in WAC 388-38-045, an eligibility determination shall be made as specified in WAC 388-38-200, and according to the following rules:

(i) Denial is appropriate only because eligibility has not been established, and shall not be supported on the grounds that the applicant has failed to provide requested statements in support of application, or to have done so within the reasonable period allowed. Every such denial must include the information specified in WAC 388-38-172, and in the event the applicant requests a fair hearing to contest the denial, the issue in such de novo hearing shall be whether the applicant can in fact establish his or her eligibility.

(ii) When financial assistance is denied according to subsection (2)(b)(i) of this section, the applicant shall be allowed thirty days from the date of the denial notice to provide all specified information that was not provided. If the applicant, within such thirty-day period, provides the specified information and the applicant's circumstances have not changed to the extent additional information is needed to determine eligibility, the department shall determine eligibility based upon the specified information. If eligibility is established, the department shall rescind the denial and approve assistance based upon the denied application.

(iii) For AFDC, subject to the rules in subsection (2)(b)(i) of this section, financial assistance shall not be denied to the entire assistance unit unless information required to establish eligibility of the entire assistance unit is lacking. When information not provided affects only the eligibility of an individual member or members of the assistance unit, financial assistance shall be denied to such members.

(3) Withdrawal, that is,

(a) Applicant voluntarily requests orally or in writing that no further consideration be given to the applicant's application. For all withdrawal requests, a notation shall be made in the case record that the application has been withdrawn at applicant's request, and that a notice has been sent as specified in WAC 388-38-172.

(b) Applicant for medical assistance fails to file a written application on forms prescribed by the department.

(c) Applicant fails to report for a scheduled interview and has not contacted the department to reschedule an interview within thirty days from the date of application;

(d) Death occurred before determination of eligibility was completed.

(4) The date an application shall be considered disposed of is:

(a) For approvals, the date a document authorizing assistance payment is correctly processed; and

(b) For denials and withdrawals, the date written notice of the decision as provided in WAC 388-38-172 is given or mailed to the applicant.

[Statutory Authority: RCW 74.08.090, 86-11-060 (Order 2380), § 388-38-120, filed 5/21/86; 81-12-045 (Order 1661), § 388-38-120, filed 6/3/81; Order 1241, § 388-38-120, filed 9/23/77; Order 1101, §

388-38-120, filed 2/25/76; Order 943, § 388-38-120, filed 6/28/74; Order 537, § 388-38-120, filed 3/31/71, effective 5/1/71; Order 354, § 388-38-120, filed 5/29/69; Order 313, § 388-38-120, filed 10/31/68; Regulation 13.32, filed 1/24/64.]

#### **WAC 388-38-150 Application approved--Notice.**

An applicant eligible for continuing assistance shall be notified of the decision to authorize a grant according to WAC 388-33-125 when he or she is in his or her own home or boarding and rooming, or WAC 388-34-180 when he or she is living in an institution.

[Statutory Authority: RCW 74.08.090, 86-11-060 (Order 2380), § 388-38-150, filed 5/21/86; Order 537, § 388-38-150, filed 3/31/71, effective 5/1/71; Order 313, § 388-38-150, filed 10/31/68; Regulation 13.41, filed 1/24/64.]

#### **WAC 388-38-172 Application denied or withdrawn--Notice.**

Written notice shall be given to an individual whose application for assistance is denied or withdrawn, except for a withdrawal due to an applicant's death. The notice shall include the following information:

(1) The basis for the decision including the reason or reasons for and rules supporting such action. For applications denied according to WAC 388-38-120 (2)(b)(i), the notice must state:

(a) What specified information was requested and not provided including the date of the request;

(b) That, based upon information provided by the applicant, eligibility for financial assistance has not been established; and

(c) That, if the applicant, within thirty days from the date of the denial notice, provides all specified information requested and not provided and the applicant's circumstances have not changed, the department will redetermine eligibility and, if eligibility is established, rescind the denial and approve assistance.

(2) The date of the decision.

(3) The right to a fair hearing. The letter need not include notice of right to a fair hearing when the applicant gives written notice of withdrawal including a statement to that effect on his or her application.

[Statutory Authority: RCW 74.08.090, 86-11-060 (Order 2380), § 388-38-172, filed 5/21/86; Order 537, § 388-38-172, filed 3/31/71, effective 5/1/71; Order 313, § 388-38-172, filed 10/31/68.]

#### **WAC 388-38-200 Verifying eligibility and re-eligibility.**

(1) All facts necessary to determine the eligibility or ineligibility of the applicant or recipient shall be established in accordance with the methods prescribed in this section. The practices described in this section apply to the initial application for financial assistance, to re-application, reinstatement, and redetermination of eligibility.

(2) In taking applications, determining eligibility, and in administering the assistance programs, the rights of individuals under the U.S. Constitution, the Social Security Act, Title VI of the Civil Rights Act of 1964, and all other relevant provisions of federal and state law shall be respected. This includes the avoidance of practices violating the individual's privacy or subjecting him or her to harassment.

(3) Each determination of eligibility shall include at least one face-to-face interview with the applicant, or if direct contact with the applicant is impractical with someone representing the applicant. The department may require a face-to-face interview with the recipient for each redetermination of eligibility.

(4) All factors of eligibility shall be verified unless the department determines eligibility can be accurately determined without verifying one or more of the factors.

(5) Factors not subject to change having been sufficiently verified shall not be reverified at a subsequent reapplication, reinstatement, or redetermination of eligibility. Examples of such factors include, but are not limited to, relationship of family members, birthdate to verify age, and deprivation due to death of a parent.

(6) The applicant's statement of his or her circumstances is the first source of information in determining eligibility.

(7) The applicant shall be fully informed about the corroborating documentation needed to establish eligibility and the applicant's obligation to secure this himself or herself whenever reasonably possible, or to assist the department in obtaining sufficient information to determine eligibility.

(8) The department shall request the applicant to provide verification documents based upon the availability of such documents. Documents that are readily available shall be requested first if it is anticipated that such documents would be sufficient to determine eligibility.

(9) If eligibility is established based upon available verification, the department may request a higher form of verification subsequent to approval and authorization of assistance. Any applicant or recipient aggrieved by such additional request shall have a right to a fair hearing.

(10) An applicant shall not be required to provide a verification document for which a fee is charged unless the department authorizes payment for such fee.

(11) An application shall not be denied or delayed because of an applicant's failure to provide a specific type or form of verification; all alternative verification for an eligibility factor must be accepted and considered in determining eligibility.

(12) When the applicant is unable to provide verification necessary to establish eligibility, the department shall obtain substantiating evidence from other sources, such as statements from persons other than the applicant attested to under penalty of perjury.

(13) When verification for one or more factors is not obtained, the department shall determine eligibility for assistance based upon all available evidence, and if eligibility cannot be reasonably established, assistance shall be denied.

(14) The applicant's signature on the application attests to his or her consent for the department to obtain substantiating evidence from collateral sources.

(15) Each decision that an applicant is eligible for or ineligible for assistance or other services shall be supported by information in the case record showing that each eligibility requirement is met or that one or more is

not met. Such information includes, but is not limited to, documents supporting eligibility and statements of the reason or reasons for the decision.

[Statutory Authority: RCW 74.08.090, 86-11-060 (Order 2380), § 388-38-200, filed 5/21/86; 83-13-095 (Order 1971), § 388-38-200, filed 6/20/83; Order 1241, § 388-38-200, filed 9/23/77.]

**WAC 388-38-220 Verification of citizenship.** (1) Verification of status as a citizen or national of the United States includes

(a) A certified copy of a public record of birth or a religious record of birth or baptism showing birth in the United States, or

(b) A certificate of citizenship, or

(c) A certificate of naturalization, or

(d) A United States passport, or

(e) An identification card for use of resident citizen in the United States.

(2) If evidence described in subsections (1)(a) through (1)(e) is not available, an individual may state the reason and submit other evidence of probative value as to citizenship.

[Order 1241, § 388-38-220, filed 9/23/77.]

**WAC 388-38-225 Verification of lawful admission for permanent residence in United States.** (1) Verification as to an individual's lawful admission for permanent residence in the United States includes an alien registration receipt card, or a reentry permit.

(2) If evidence described in subsection (1) is not available, the individual may state the reason and submit other evidence of probative value.

[Order 1241, § 388-38-225, filed 9/23/77.]

**WAC 388-38-230 Verification of permanent residence in United States under color of law.** (1) Verification that an applicant has been residing permanently under color of law in the United States includes these determinations by immigration and naturalization service:

(a) INS Form I-94 (arrival - departure record) endorsed "refugee - conditional entry," pursuant to section 203 (a)(7) of the Immigration and Nationality Act, or

(b) INS Form I-94 endorsed to show bearer has been paroled for an indefinite period pursuant to section 212 (d)(5) of the Immigration and Nationality Act, or

(c) Documentation in the form of correspondence from the immigration and naturalization service stating the individual has been granted indefinite voluntary departure or an indefinite stay of deportation.

(2) If evidence described in subsection (1)(a) through (1)(c) is not available, the individual may state the reason therefor and submit other evidence of probative value.

[Order 1241, § 388-38-230, filed 9/23/77.]

**WAC 388-38-250 Responsibility for eligibility maintenance.** Maintenance of eligibility for public assistance is a dual responsibility of the recipient and the local office.

[Order 1241, § 388-38-250, filed 9/23/77.]

**WAC 388-38-255 Responsibility for eligibility maintenance--Recipient.** (1) The recipient has the responsibility to report promptly and accurately in writing all changes in his circumstances which affect his continuing eligibility for assistance.

(2) The recipient's failure to report such changes in circumstances to the local office within twenty days shall be considered prima facie evidence of fraudulent intent. (See WAC 388-44-020(2).)

(3) The recipient shall take any action which is reasonably possible for him to develop resources which will reduce or eliminate his need for public assistance.

[Order 1241, § 388-38-255, filed 9/23/77.]

**WAC 388-38-260 Responsibility for eligibility maintenance--Local office.** The LO has the responsibility to

(1) Inform recipients of all factors which may affect their continuing eligibility for assistance, and

(2) Act promptly and correctly on all known changes which affect the eligibility of recipients.

(3) Notify recipients when eligibility conditions are changed by law or rule of the department, unless the SO directly assumes this function.

(4) Complete a full periodic review if a sufficient number of factors have changed to make a full review practical.

[Order 1241, § 388-38-260, filed 9/23/77.]

**WAC 388-38-265 Recipient's whereabouts unknown or failure to provide eligibility data.** A recipient shall be ineligible and his or her grant shall be terminated when:

(1) He or she cannot be located and he or she fails to furnish his or her current address within ten days following the mailing of a letter to his or her last known address asking for information, or

(2) He or she fails to furnish information and/or requested verification about his or her continued eligibility or fails to take a specific action within ten days following the mailing of a letter to his or her last known address specifically citing the required information or action. The letter shall include a statement that failure to provide the information may result in termination or reduction of the grant.

(3) If adequate information or verification is received within the ten-day period and results in reduction, suspension, or termination of the grant, advance and adequate notice of action is required.

(4) If the requested information or verification is not supplied within ten days or is inadequate, the recipient shall be given advance and adequate notice of termination.

(5) If the information or verification is supplied up to the effective date of the adverse action, the department shall accept the information or verification. If advance and adequate notice of termination has already been sent to the recipient:

(a) A written notice acknowledging receipt shall be sent if continuing eligibility is established, or

(b) An additional adequate notice shall be sent to the recipient if:

(i) The response is inadequate or

(ii) The response results in termination, reduction, or suspension of the grant.

(c) Advance notice is not required under subsection (5)(b) of this section.

[Statutory Authority: RCW 74.08.090. 83-24-015 (Order 2051), § 388-38-265, filed 11/30/83; Order 1241, § 388-38-265, filed 9/23/77.]

**WAC 388-38-270 Redirection of warrant.** (1) A recipient eligible for continuing assistance is entitled to regular and correct payment without undue interruption or delay. The local office may redirect a warrant only when there is evidence as specified in subsection (2) of this section that:

(a) An overpayment will occur, or

(b) The warrant will not be received by the recipient.

(2) Factors which justify redirection of a warrant to the local office within the meaning of subsection (1) of this section shall be limited to these situations:

(a) The address of a recipient is unknown by the local office or the recipient has reported that he or she has changed or will change his or her address prior to scheduled receipt of the warrant.

(b) A change in payee is required for correct receipt of the warrant.

(c) Redirection of the warrant is required to effect a proposed reduction, suspension, or termination of a grant as provided in WAC 388-33-382 (2)(a).

(d) A recipient has entered an institution and the local office has been notified by someone acting on his or her behalf.

(3) The state office may redirect a warrant to the local office when an authorization has been submitted which cannot be processed before delivery date due to error in the authorization. The warrant is redirected so that necessary action can be immediately taken to continue payment in the correct amount.

(4) The local office shall notify the recipient before action is taken to redirect a warrant for any reason other than death, unless the recipient has already been notified that a warrant change will be made. Such notification shall include:

(a) The reason for the redirect action, and

(b) Assurance of corrected payment, when appropriate, at the earliest possible date.

(5) Decision as to the recipient's eligibility or ineligibility for the warrant shall be made at the earliest possible date but not later than thirty days after the date of its issuance.

(a) If ineligibility is determined, the warrant is cancelled. The recipient shall be notified in writing of the reason for cancellation.

(b) If ineligibility is not determined, the warrant shall be released or, if it is not in the correct amount, payment shall be authorized promptly according to WAC 388-33-140 and a one-time grant issued if necessary as provided in WAC 388-33-595 (2)(b).

[Statutory Authority: RCW 74.08.090, 86-07-002 (Order 2345), § 388-38-270, filed 3/6/86; Order 1241, § 388-38-270, filed 9/23/77.]

**WAC 388-38-280 Periodic review and redetermination of eligibility.** (1) A redetermination of eligibility as used in this section means a complete periodic review of all eligibility and need factors.

(2) Chapters 388-28 and 388-33 WAC contain program eligibility and need factors. WAC 388-38-200 describes eligibility.

(3) AFDC recipients shall have their continued eligibility for such assistance redetermined at least once in every six months of continuous receipt of assistance. At least one redetermination shall be a face-to-face once every twelve months.

(4) The department shall designate the forms to use during the periodic eligibility review. The forms shall:

(a) Be the recipient's statement in support of continuing eligibility, and

(b) Contain the recipient's written declaration that the answers are made under the penalty of perjury.

(5) The recipient shall complete and submit the designated form to the department to continue receiving assistance.

(6) The department shall only require one completed form from a family consisting of two or more assistance units.

[Statutory Authority: RCW 74.08.090, 86-21-051 (Order 2434), § 388-38-280, filed 10/13/86; 86-08-004 (Order 2350), § 388-38-280, filed 3/20/86; Order 1241, § 388-38-280, filed 9/23/77.]

**WAC 388-38-285 Content of review.** (1) The financial eligibility section shall review each eligibility factor which is subject to change and evaluate any change occurring since eligibility was previously established or reviewed.

(2) The LO shall provide the recipient information regarding

(a) Significant changes in public assistance laws or department rules not previously discussed which may affect the recipient.

(b) His responsibility to keep the LO informed of changes in his circumstances.

[Order 1241, § 388-38-285, filed 9/23/77.]

**WAC 388-38-290 Action on review.** (1) Action is taken as a result so that all matters pertaining to incorrect past, current or future grants are brought into conformity with the rules of the department.

(2) A written notification must be sent according to WAC 388-33-335 and 388-33-380 to the recipient when the review results in a change in amount of grant, suspension, termination, or an overpayment has occurred.

[Order 1241, § 388-38-290, filed 9/23/77.]

**WAC 388-38-295 Changing and terminating grant.** When a recipient becomes ineligible for a grant or the grant amount for which he is eligible changes, the appropriate rules in chapter 388-33 WAC shall be followed.

[Order 1241, § 388-38-295, filed 9/23/77.]

## Chapter 388-40 WAC ALCOHOLISM DETOXIFICATION PROGRAM

WAC  
388-40-010 Eligible persons.

**WAC 388-40-010 Eligible persons.** (1) Persons eligible for three-day detoxification services for acute alcoholic condition shall be:

(a) All grant, medical, and SSI beneficiaries; and

(b) Individual's whose combined nonexempt income and/or resources do not exceed the AFDC payment standards, and who have not transferred resources within two years prior to the date of application without having received adequate consideration according to the provisions of WAC 388-28-461.

(2) The following resources shall be exempt for the alcoholism detoxification program:

(a) A home.

(b) Household furnishings and personal clothing essential for daily living.

(c) Other personal property used to reduce need for assistance or for rehabilitation.

(d) A used and useful automobile.

(3) The following resources are not exempt:

Cash, marketable securities and any other resource not specifically exempted that can be converted to cash.

(4) The following shall be deducted or exempted from income:

(a) Mandatory deductions of employment.

(b) Total income and resources of a noninstitutionalized SSI beneficiary.

(c) Support payments paid under a court order.

(d) Payments to a wage earner plan specified by a court in bankruptcy proceedings, or previously contracted major household repairs if failure to make such payments would result in garnishment of wages or loss of employment.

(5) Recipients receiving detoxification services shall not be required to incur a deductible as a factor of eligibility for the covered period of detoxification.

(6)(a) Eligibility for the alcoholism detoxification program shall be determined on the basis of information shown on the department's application forms.

(b) Supplemental forms, verification procedures, and/or face-to-face interviews shall be required only in cases where there is a specific reason for requiring further verification of eligibility.

(7) When the department is notified within ten working days of the date detoxification began, certification shall cover this period if all eligibility factors have been met.

(8) The effective period of eligibility shall be continued from the date detoxification treatment began through the end of the month in which the three-day treatment was completed.

(9) Services must meet the following criteria to be paid through the alcoholism detoxification program:

(a) Such services must be directly related to detoxification, and

(b) Such services must be performed in a certified detoxification center or a general hospital with certified detoxification facilities.

[Statutory Authority: RCW 74.08.090. 82-20-023 (Order 1884), § 388-40-010, filed 9/29/82; 81-10-011 (Order 1643), § 388-40-010, filed 4/27/81.]

### Chapter 388-42 WAC FUNERAL EXPENSE

#### 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.

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

388-42-010	Funerals. [Regulation 15.00, filed 1/24/64.] Repealed by Order 538, filed 3/31/71, effective 5/1/71.
388-42-050	Funeral expenses—Veterans' burial benefit. [Statutory Authority: RCW 74.08.090. 81-10-011 (Order 1643), § 388-42-050, filed 4/27/81; Order 538, § 388-42-050, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-050, filed 10/20/67; Regulation 15.31, filed 1/24/64.] Repealed by 81-17-026 (Order 1691), filed 8/12/81. Statutory Authority: RCW 74.08.090.
388-42-060	Funeral expenses—Workmen's compensation. [Order 538, § 388-42-060, filed 3/31/71, effective 5/1/71.] Repealed by 81-17-026 (Order 1691), filed 8/12/81. Statutory Authority: RCW 74.08.090.
388-42-070	Funeral expenses—Social Security death benefit. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-42-070, filed 9/18/78; Order 538, § 388-42-070, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-070, filed 10/20/67; Regulation 15.33, filed 3/31/66; Regulation 15.33, filed 1/24/64.] Repealed by 81-17-026 (Order 1691), filed 8/12/81. Statutory Authority: RCW 74.08.090.
388-42-080	Funeral expenses—Railroad retirement death benefit. [Order 538, § 388-42-080, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-080, filed 10/20/67; Regulation 15.34, filed 1/24/64.] Repealed by 81-17-026 (Order 1691), filed 8/12/81. Statutory Authority: RCW 74.08.090.
388-42-090	Funeral expenses—Life insurance. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-42-090, filed 9/18/78; Order 538, § 388-42-090, filed 3/31/71, effective 5/1/71; Order 371, § 388-42-090, filed 8/7/69; Order 242, § 388-42-090, filed 10/20/67; Regulation 15.35, filed 1/24/64.] Repealed by 81-17-026 (Order 1691), filed 8/12/81. Statutory Authority: RCW 74.08.090.
388-42-160	Agreements with funeral directors, cemetery and crematory operators. [Order 242, § 388-42-160, filed 10/20/67; Regulation 15.70, filed 1/24/64.] Repealed by Order 281, filed 2/14/68.
388-42-170	Lien against deceased person's assets exempted for use by spouse and/or minor children. [Regulation 15.80, filed 12/31/65.] Repealed by Order 245, filed 10/20/67.

**WAC 388-42-020 Funeral 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 reposing 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 endowed 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 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, 86-11-023 (Order 2376), § 388-42-040, filed 5/14/86; 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	
388-44-010	Overpayment—Underpayment—Defined.
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388-44-035	Overpayment—Amount.
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388-44-160	Repayment from estate.
388-44-250	Gifts, bequests by will, contributions.
388-44-280	Subrogation.

## DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-44-025 Overpayments—Effective dates. [Statutory Authority: RCW 74.08.090, 83-05-046 (Order 1947), § 388-44-025, filed 2/16/83.] Repealed by 86-04-014 (Order 2335), filed 1/24/86. Statutory Authority: RCW 74.04.050.
- 388-44-040 Overpayment—Due to need factor. [Order 539, § 388-44-040, filed 3/31/71, effective 5/1/71; Order 396, § 388-44-040, filed 10/15/69; Regulation 16.12, filed 1/24/64.] Repealed by 81-09-045 (Order 1638), filed 4/15/81. Statutory Authority: RCW 74.08.090.
- 388-44-045 Overpayment—During known period of ineligibility. [Regulation 16.13, filed 1/24/64.] Repealed by Order 396, filed 10/15/69.
- 388-44-075 Establishing overpayment. [Order 396, § 388-44-075, filed 10/15/69; Regulation 16.20, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-085 Establishing overpayment—Person not available for interview. [Order 396, § 388-44-085, filed 10/15/69; Regulation 16.22, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-095 Establishing overpayment—Substantiation. [Order 396, § 388-44-095, filed 10/15/69; Regulation 16.23, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-130 Repayment of overpayment from former recipients. [Statutory Authority: 74.08.090, 83-05-046 (Order 1947), § 388-44-130, filed 2/16/83; 82-04-072 (Order 1755), § 388-44-130, filed 2/3/82; Order 965, § 388-44-130, filed 8/29/74; Order 897, § 388-44-130, filed 1/11/74; Order 800, § 388-44-130, filed 5/25/73; Order 539, § 388-44-130, filed 3/31/71, effective 5/1/71; Order 446, § 388-44-130, filed 4/28/70; Regulation 16.31, filed 1/24/64.] Repealed by 86-04-014 (Order 2335), filed 1/24/86. Statutory Authority: RCW 74.04.050.
- 388-44-155 Involuntary repayment—Current or former recipient. [Regulation 16.323, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-200 Accounts receivable. [Reference section only.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-205 Accounts receivable—Establishing. [Regulation 16.41, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-210 Accounts receivable—Closures. [Regulation 16.42, filed 12/21/64, effective 2/1/65; Regulation 16.42, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-215 Accounts receivable—Credit balances. [Regulation 16.43, filed 12/21/64, effective 2/1/65; Regulation 16.43, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-220 Accounts receivable—Transfer. [Regulation 16.44, filed 12/21/64, effective 2/1/65; Regulation 16.44, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-240 Cash repayment. [Regulation 16.50, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-255 Preparation of will. [Regulation 16.61, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-285 Subrogation—Responsibility. [Regulation 16.71, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-300 Subrogation—Other procedures for collection. [Regulation 16.74, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-315 Adjustment of federal aid matching erroneously claimed. [Regulation 16.80, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-320 Conditions requiring adjustment. [Regulation 16.81, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-325 Method of reporting. [Regulation 16.82, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.

**WAC 388-44-010 Overpayment--Underpayment--Defined.** (1) "Overpayment" means any grant or medical assistance payment received by or for an assistance unit for the payment month which exceeds the amount the unit was eligible to receive.

(2) An overpayment includes but is not limited to:

(a) Vendor payments for medical care provided during a period when the individual was not eligible for public assistance,

(b) Payments made pending a fair hearing when the fair hearing decision subsequently finds against the client,

(c) Payments made during the ten-day advance notice period when the client is ineligible for payment, and

(d) Continued payments received by the recipient because the appropriate ten-day advance period extends into the next month.

(3) Funeral expenses paid by the department are an overpayment to the extent the value of the estate is not used as a resource in determining eligibility. However, the department's funeral expense payment is not repayable when the estate consists only of assets (resources) which are exempted in determining eligibility for public assistance for the surviving spouse and/or dependents.

(4) Policies regarding food stamps received in excess of the amount the household was entitled to receive are outlined in chapter 388-54 WAC.

(5) "Underpayment" means a financial assistance payment received by or for an assistance unit for the payment month which is less than the amount for which the assistance unit was eligible, or failure by the state to issue a financial assistance payment for the payment month to an eligible assistance unit if such payment should have been issued.

(6) Policies in this chapter delineating recoupment of overpayments by means of a deduction from the current grant are limited to public assistance money grant overpayments.

(7) For purposes of this chapter, grant payment standard is defined as payment level or the amount payable to a family of the same composition with no other income or nonexempt resources.

[Statutory Authority: RCW 74.04.050, 86-04-014 (Order 2335), § 388-44-010, filed 1/24/86. Statutory Authority: RCW 74.08.090, 83-05-046 (Order 1947), § 388-44-010, filed 2/16/83; 82-04-072 (Order 1755), § 388-44-010, filed 2/3/82; 81-09-045 (Order 1638), § 388-44-010, filed 4/15/81; Order 1058, § 388-44-010, filed 10/1/75; Order 800, § 388-44-010, filed 5/25/73; Order 539, § 388-44-010, filed 3/31/71, effective 5/1/71; Order 396, § 388-44-010, filed 10/15/69; Regulation 16.01, filed 1/24/64.]

**WAC 388-44-020 Intentional overpayment--Defined.** (1) "Intentional overpayment" means an overpayment occurring when there is willful or knowing intent of the recipient to either receive or retain an overpayment.

(2) It shall be the duty of any recipient of public assistance to notify the department within twenty days of any change in circumstances affecting eligibility or need, including receipt or possession of all income or resources not previously declared to the department. When a local office finds that an applicant or recipient has misstated or failed to reveal any material fact affecting eligibility or need, it shall presume that such act was done intentionally.

(3) It shall be the duty of the department, whenever it finds misstatement or failure to reveal pertinent facts or circumstances, to secure further evidence, whenever possible, which enables it to formulate a firm opinion as to whether or not the act was committed intentionally. In the absence of such further evidence, the presumption is not overcome; however, such presumption is rebuttable.

(4) The department must inform all applicants and recipients of their rights and responsibilities concerning eligibility for and receipt of assistance.

(5) See chapter 388-46 WAC for referral to county prosecutor for possible criminal action.

[Statutory Authority: RCW 74.08.090. 83-05-046 (Order 1947), § 388-44-020, filed 2/16/83; 81-09-045 (Order 1638), § 388-44-020, filed 4/15/81; Order 843, § 388-44-020, filed 8/9/73; Order 800, § 388-44-020, filed 5/25/73; Order 539, § 388-44-020, filed 3/31/71, effective 5/1/71; Regulation 16.02, filed 1/24/64.]

**WAC 388-44-035 Overpayment—Amount.** (1) The amount of overpayment shall be determined as the amount of assistance, including medical care, to which the assistance unit was not entitled.

(2) To determine the amount to which the assistance unit was not entitled in subsection (1) of this section, the overpayment shall be reduced:

(a) By the amount of assistance the assistance unit would have been eligible to receive during the period of ineligibility from any other category of assistance.

(b) By the amount of child support, paid by the absent parent for the month of overpayment, in excess of the amount of assistance the assistance unit was actually entitled, in cases where the client was eligible for some part of the monthly AFDC grant.

(c) By the amount of excess support in subsection (2)(b) of this section minus the amount of support already distributed to the recipient according to WAC 388-14-270 (2)(a), in cases where the client was totally ineligible for an AFDC grant.

(3) When establishing an overpayment for a period of time containing both overpayments and underpayments, any overpayment shall be reduced by the amount of any underpayment.

(4) Underpayments, not negated by being budgeted against an overpayment established at the same time, will be paid to recipients upon discovery. Underpayments to former recipients will not be paid unless specifically ordered by a decision of the courts or a fair hearing. For purposes of determining continued eligibility and amount of assistance, underpayments paid to recipients shall not be considered as income or as a resource in the month paid nor in the next following month.

[Statutory Authority: RCW 74.04.050. 86-04-014 (Order 2335), § 388-44-035, filed 1/24/86. Statutory Authority: RCW 74.08.090. 83-05-046 (Order 1947), § 388-44-035, filed 2/16/83; 82-04-072 (Order 1755), § 388-44-035, filed 2/3/82; 81-09-045 (Order 1638), § 388-44-035, filed 4/15/81; Order 539, § 388-44-035, filed 3/31/71, effective 5/1/71; Order 396, § 388-44-035, filed 10/15/69; Regulation 16.11, filed 1/24/64.]

**WAC 388-44-046 Overpayment—Support payments not treated as overpayment.** Support payments received directly by the parent or other caretaker relative from the absent parent shall be remitted to the office of support enforcement. Such payments shall not be treated as a grant overpayment, but shall be considered as a debt to be collected by the office of support enforcement.

[Order 1054, § 388-44-046, filed 9/25/75.]

**WAC 388-44-050 Overpayment—Relationship to underpayment.** The assistance unit's over- or underpayment is the net amount or difference between any incorrect payments or computations. Over- or underpayment in one assistance unit shall not be credited to any other assistance unit.

[Statutory Authority: RCW 74.08.090. 82-04-072 (Order 1755), § 388-44-050, filed 2/3/82; Order 539, § 388-44-050, filed 3/31/71, effective 5/1/71; Regulation 16.14, filed 1/24/64.]

**WAC 388-44-110 Overpayment—Liability.** (1) Overpayments may be recovered from:

(a) The assistance unit which was overpaid;

(b) Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member; or

(c) Any individual members of the overpaid assistance unit whether or not currently a recipient.

(2) The exception to this rule is the individual acting as payee only and deriving no financial benefit from the payment of assistance. In such instance the overpayment account receivable is established in the name of the person who received the financial benefit of the payment of assistance.

(3) There shall be no liability placed upon individuals incurring unintentional overpayments when:

(a) The individual is not receiving a grant at the time the overpayment is discovered and/or computed, and

(b) The amount of the overpayment is less than thirty-five dollars.

[Statutory Authority: RCW 74.04.050. 86-04-014 (Order 2335), § 388-44-110, filed 1/24/86. Statutory Authority: RCW 74.08.090. 83-05-046 (Order 1947), § 388-44-110, filed 2/16/83; 82-04-072 (Order 1755), § 388-44-110, filed 2/3/82; 80-14-061 (Order 1547), § 388-44-110, filed 10/1/80; Order 800, § 388-44-110, filed 5/25/73; Order 539, § 388-44-110, filed 3/31/71, effective 5/1/71; Regulation 16.24, filed 1/24/64.]

**WAC 388-44-115 Verification of overpayment.** (1) When an apparent overpayment has occurred, the department shall attempt to verify all pertinent information in the case. The department shall attempt to contact the recipient and request an explanation of the circumstances surrounding the apparent overpayment.

(2) If the recipient does not respond or fails to cooperate, the department shall make an independent determination, based on all available information, that an overpayment either has or has not occurred.

(3) When an overpayment has been verified, the department shall take appropriate action to secure repayment as prescribed by WAC 388-44-125 through 388-44-160. Any such action shall be consistent with departmental rules on notification of suspension, termination, or reduction of grant.

(4) A letter shall be sent to any recipient or payee when an overpayment has been established. The letter shall include the following information:

- (a) The amount of the overpayment,
- (b) The circumstances which brought about the overpayment,
- (c) The dates the overpayment occurred,
- (d) An explanation of the method of repayment and the effect of the overpayment on future grant payments,
- (e) A determination that an intentional overpayment is or is not involved,
- (f) A statement that overpayments are debts due the state,
- (g) A computation of the amount due the state,
- (h) A statement that the financial recovery office is responsible for establishing repayment schedules when recoupment is not subject to a mandatory deduction from the current grant,
- (i) A statement of the right to a fair hearing.
- (j) Property of the debtor will be subject to collection action after the debtor terminates from public assistance.
- (k) Property will be subject to lien and foreclosure, distraint and seizure, and sale or order to withhold and deliver.
- (l) Net proceeds of subsection (4)(j) and (k) of this section will be applied to satisfy the overpayment debt.
- (m) Action to collect the debt as in subsections (4)(j) and (k) of this section is lawful after ninety days from the debtor's termination from public assistance or receipt of the notice of debt, whichever is later.

(6) A person who has incurred an overpayment shall be notified of that debt by:

- (a) Personal service, or
- (b) Certified mail, return receipt requested, addressee only.

(7) Personal service may be made by:

- (a) An employee of DSHS, or
- (b) The sheriff of the county where the recipient of public assistance resides. When service is made by the sheriff, an affidavit of service on the county's form will routinely be furnished by the sheriff.

(c) Any other person eighteen years of age or older who is competent to be a witness in the action.

(8) Personal service can be made by delivering a copy of the overpayment letter as follows:

- (a) If to a minor, to such minor personally, and also to his or her father, mother, guardian, or if there is none within the state, then to any person having the care, custody, or control of such minor or who is the payee of

the minor's grant, or with whom he or she resides or in whose service he or she is employed.

(b) If to any person for whom a guardian has been appointed for any cause, then to such guardian.

(c) If to a company or corporation, to the president or other head of the company or corporation, secretary, cashier, or managing agent thereof or the secretary, stenographer, or office assistant of the president or other head of the company or corporation, secretary, cashier, or managing agent.

(d) In all other cases, to the debtor personally or by leaving a copy of the letter at the residence of the debtor's usual abode with some person of suitable age and discretion residing therein.

(e) If joint liability exists, each debtor shall be provided a copy, except only one copy need be sent to spouses living together.

(f) Out-of-state service shall be the same as personal service within the state.

(g) Refusal of such notice by the debtor is proof of notice to the debtor of the debt owed.

(9) Nothing in this section precludes the department from recovering overpayments by deduction from subsequent assistance payments.

[Statutory Authority: RCW 74.04.050, 86-04-014 (Order 2335), § 388-44-115, filed 1/24/86. Statutory Authority: RCW 74.08.090, 83-05-046 (Order 1947), § 388-44-115, filed 2/16/83; 82-04-072 (Order 1755), § 388-44-115, filed 2/3/82; 81-19-029 (Order 1698), § 388-44-115, filed 9/9/81; Order 800, § 388-44-115, filed 5/25/73.]

**WAC 388-44-120 Invalid overpayment.** When the department finds that it has mistakenly charged an individual with an overpayment which in fact never occurred, the individual shall not be held liable for repayment. In such a case, if an account receivable has been established by the department, such account shall be nullified and the individual so notified in writing. The individual shall be refunded any amount paid into the invalid overpayment account.

[Order 800, § 388-44-120, filed 5/25/73.]

**WAC 388-44-125 Repayment of overpayment 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 recovered by monthly deductions of less than ten 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 74.04.050, 86-04-014 (Order 2335), § 388-44-125, filed 1/24/86. 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 388-44-140 Responsibility for recovery of overpayment.** (1) Overpayments are debts due the state and are subject to recovery by the department.

(2) The local office shall be responsible for effecting repayment of overpayments from current recipients when repayments are to be made by grant deduction as specified in WAC 388-44-145.

(3) The office of financial recovery and the attorney general are responsible for the recovery of overpayments from former recipients and for the determination of collectibility.

[Statutory Authority: RCW 74.04.050, 86-04-014 (Order 2335), § 388-44-140, filed 1/24/86. Statutory Authority: RCW 74.08.090, 82-04-072 (Order 1755), § 388-44-140, filed 2/3/82; Order 897, § 388-44-140, filed 1/11/74; Order 800, § 388-44-140, filed 5/25/73; Order 539, § 388-44-140, filed 3/31/71, effective 5/1/71; Regulation 16.32, filed 1/24/64.]

**WAC 388-44-145 Involuntary repayment of overpayment--Mandatory grant deduction.** (1) An overpayment shall be recouped by mandatory deduction from future continuing assistance grants except as modified by WAC 388-44-125 and 388-44-127.

(2) An intentional overpayment is subject to recovery by a mandatory grant deduction of ten percent of the payment standard unless the recipient has cash, bank accounts, or marketable securities he or she refuses to use in full or partial satisfaction of an overpayment. In such cases, a monthly deduction of up to one hundred percent of future grant or grants shall be established until such time as the amount of the grant or grants 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 in WAC 388-44-010(7).

(3) The department shall limit the amount of the monthly deduction for unintentional overpayments so the deduction shall not exceed five percent of the recipient's total monthly grant payment standard unless the recipient voluntarily requests a larger deduction in writing.

(a) 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.

(b) 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 74.04.050, 86-04-014 (Order 2335), § 388-44-145, filed 1/24/86. 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.]

**WAC 388-44-150 Recovery of overpayments--Former recipients.** When the department determines there is an overpayment, the department may as appropriate:

- (1) File a lien against the property of the debtor;
- (2) Accept voluntary repayment agreements from the debtor;
- (3) Issue an order to withhold and deliver the debtor's wages, earnings, income property, and/or accounts;
- (4) Accept a statutory assignment of wages from the debtor; and/or
- (5) Pursue recovery in civil courts through the attorney general's office.

[Statutory Authority: RCW 74.04.050, 86-04-014 (Order 2335), § 388-44-150, filed 1/24/86. Statutory Authority: RCW 74.08.090, 83-05-046 (Order 1947), § 388-44-150, filed 2/16/83; 82-04-072 (Order 1755), § 388-44-150, filed 2/3/82; Order 800, § 388-44-150, filed 5/25/73; Order 539, § 388-44-150, filed 3/31/71, effective 5/1/71; Regulation 16.322, filed 1/24/64.]

**WAC 388-44-160 Repayment from estate.** An overpayment of assistance not repaid during the person's lifetime is repayable from his estate.

[Order 539, § 388-44-160, filed 3/31/71, effective 5/1/71; Order 251, § 388-44-160, filed 11/1/67; Regulation 16.324, filed 1/24/64.]

**WAC 388-44-250 Gifts, bequests by will, contributions.** (1) The department may accept gifts, bequests or contributions in cash or otherwise from persons, associations, or corporations.

(2) The CSO shall not accept a gift or contribution from a person eligible for public assistance.

(3) A recipient of public assistance or any other person desiring information or assistance regarding the preparation of a will shall be advised to contact an attorney of his or her choice or the local legal aid society.

[Statutory Authority: RCW 74.08.090, 82-04-072 (Order 1755), § 388-44-250, filed 2/3/82; Order 539, § 388-44-250, filed 3/31/71, effective 5/1/71; Regulation 16.60, filed 1/24/64.]

**WAC 388-44-280 Subrogation.** (1) If any payment of public assistance is made or increased for the benefit of any dependent child because of the failure of the responsible parents to provide adequate support, such parents are liable to the state in the amount of the assistance granted.

(2) The need of the child and of the caretaker relative shall be deemed met by the responsible parents only if support is provided in an amount equal to the lesser of the payment required by court order, or the amount of assistance paid by the department.

[Order 539, § 388-44-280, filed 3/31/71, effective 5/1/71; Regulation 16.70, filed 1/24/64.]

**Chapter 388-46 WAC  
RECIPIENT FRAUD--REFERRAL TO  
PROSECUTOR**

- WAC  
388-46-010 Fraud--Criminal prosecution.  
388-46-100 Fraud--Federal food coupons and commodities.

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

- 388-46-020 State office investigative units. [Regulation 17.20, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.
- 388-46-030 Methods of handling suspected fraud cases--Investigative unit help not required. [Regulation 17.31, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.
- 388-46-040 Methods of handling suspected fraud case--Investigative unit help needed. [Regulation 17.32, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.
- 388-46-050 Fraud--Referral to prosecutor. [Order 540, § 388-46-050, filed 3/31/71, effective 5/1/71; Regulation 17.40, filed 1/24/64.] Repealed by Order 801, filed 5/25/73.
- 388-46-060 Register of suspected fraud cases. [Regulation 17.50, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.
- 388-46-070 Complaints. [Regulation 17.60, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.
- 388-46-080 Case reading by investigative unit administrative assistant. [Regulation 17.70, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.
- 388-46-090 Fraud--Restitution of overpayment. [Order 540, § 388-46-090, filed 3/31/71, effective 5/1/71; Regulation 17.80, filed 1/24/64.] Repealed by Order 801, filed 5/25/73.

**WAC 388-46-010 Fraud--Criminal prosecution.** (1) The department has a duty to refer all cases in which it has found substantial evidence supporting a finding of fraud to the county prosecuting attorney for possible criminal action. Prima facie evidence does not in itself provide a substantial basis for criminal prosecution.

(2) See WAC 388-44-020 for the definition of fraud and the department's responsibilities regarding investigations of suspected fraud.

(3) It is the county prosecuting attorney's responsibility to decide which cases he will prosecute. It is the responsibility of the department to establish a working relationship with the prosecutor and to refer to the prosecutor only those cases which are well-prepared and in keeping with the guidelines provided by the prosecutor.

[Order 801, § 388-46-010, filed 5/25/73; Order 540, § 388-46-010, filed 3/31/71, effective 5/1/71; Regulation 17.10, filed 1/24/64.]

**WAC 388-46-100 Fraud—Federal food coupons and commodities.** Chapter 388-46 WAC shall apply to those cases in which the department has found substantial evidence indicating fraudulent receipt of federal food coupons or commodities.

[Order 801, § 388-46-100, filed 5/25/73; Order 540, § 388-46-100, filed 3/31/71, effective 5/1/71; Regulation 17.90, filed 1/24/64.]

### Chapter 388-52 WAC

#### SERVICES INVOLVING OTHER AGENCIES

##### WAC

388-52-150	Vocational rehabilitation services.
388-52-155	Vocational rehabilitation services—Training expenses.
388-52-160	Comprehensive employment and training program—Definitions.
388-52-163	Comprehensive employment and training program—Services provided.
388-52-166	Comprehensive employment and training program—Participation of recipient.
388-52-169	Treatment of recipient's income from CETA.
388-52-172	Release of information to prime sponsors of CETA program.

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

388-52-156	Vocational rehabilitation services for disabled—Time limitation on training. [Order 542, § 388-52-156, filed 3/31/71, effective 5/1/71.] Repealed by Order 854, filed 9/13/73.
388-52-175	Vocational rehabilitation services for disabled—Division of costs between department and division of vocational rehabilitation. [Order 465, § 388-52-175, filed 6/23/70; Regulation 20.245, filed 1/24/64.] Repealed by Order 542, filed 3/31/71, effective 5/1/71.
388-52-185	Vocational rehabilitation services for disabled—Time limitation on training. [Order 465, § 388-52-185, filed 6/23/70; Regulation 20.246, filed 1/24/64.] Repealed by Order 542, filed 3/31/71, effective 5/1/71.
388-52-200	Vocational rehabilitation services for nondisabled. [Regulation 20.25, filed 1/24/64.] Repealed by Order 465, filed 6/23/70.
388-52-225	Other considerations in joint case planning. [Regulation 20.255, filed 1/24/64.] Repealed by Order 465, filed 6/23/70.

**WAC 388-52-150 Vocational rehabilitation services.** (1) The local office shall utilize the resources of the vocational rehabilitation division in behalf of incapacitated recipients of continuing general assistance and AFDC who are eligible for and for whom vocational rehabilitation services are feasible.

(2) Vocational rehabilitation services for blind persons are provided by the division.

[Order 975, § 388-52-150, filed 10/11/74; Order 542, § 388-52-150, filed 3/31/71, effective 5/1/71; Order 465, § 388-52-150, filed 6/23/70; Regulation 20.24, filed 1/24/64.]

**WAC 388-52-155 Vocational rehabilitation services—Training expenses.** (1) The vocational rehabilitation division provides funds for expenses directly attributable to participation in a vocational rehabilitation plan. It does not pay for any item provided for in public assistance standards for requirements except for continuing general assistance recipients who are receiving rehabilitation services from the division.

(2) The division provides full maintenance costs for continuing general assistance recipients while they are receiving rehabilitation services. The local office shall terminate assistance to such recipients effective with the beginning of vocational rehabilitation maintenance payment.

(3) For an AFDC recipients receiving services from the division

(a) The assistance payment shall include all requirements as provided in the monthly standards for basic requirements but shall not include any costs directly attributable to the rehabilitation plan with the exception of necessary child care for a plan approved by the local office.

(b) If it is necessary for a recipient to leave the home to carry out the vocational rehabilitation plan, the grant shall be re-computed; separate assistance units shall be established for the vocational rehabilitation client and for the other members of his family.

[Order 975, § 388-52-155, filed 10/11/74; Order 542, § 388-52-155, filed 3/31/71, effective 5/1/71.]

**WAC 388-52-160 Comprehensive employment and training program—Definitions.** (1) "Act" as used in WAC 388-52-160 through 388-52-172 means the Comprehensive Employment and Training Act (CETA).

(2) Allowance

(a) "Basic training allowance" – a weekly payment to defray living costs during participation in training.

(b) "Dependent's allowance" – an additional weekly payment of five dollars per week for each dependent over two, up to a maximum of four additional dependents, for a maximum additional allowance of twenty dollars a week for six or more dependents.

(c) "Incentive allowance" – a thirty dollar weekly payment in lieu of the basic allowance to a participant receiving public assistance.

(d) "Additional allowance" – a payment to a participant for training expenses, for subsistence or for emergency needs.

(3) "Consortium" – an agreement among local units of government to develop and sponsor a manpower program.

(4) "Participant" – an individual who qualifies for and receives service or who takes part in the activities of a CETA program.



(5) "Prime sponsor" - a unit of government, or a combination of units of government, or a rural concentrated employment program which has entered into an agreement with the U.S. Department of Labor to provide manpower services under the act.

(6) "Public service employment" is employment by a government agency to provide services within the scope of its normal responsibility and for which wages and salaries are funded by Title II of the act.

[Order 975, § 388-52-160, filed 10/11/74.]

**WAC 388-52-163 Comprehensive employment and training program--Services provided.** (1) Manpower services under the comprehensive employment and training act are provided by local government units acting as prime sponsors of the program in the local area. Public assistance recipients are priority candidates for services from the program.

(a) Title I of the act provides for basic education and vocational training, employment orientation and counseling, work experience, job placement, and a variety of supportive services.

(b) Title II of the act provides for the establishment and operation of public service employment programs.

(2) Benefits to participants under Title I of the act may consist of basic training allowance; incentive payments to persons receiving public assistance; wages from employment under CETA other than public service employment; payments for transportation and other expenses of participation; and a variety of supportive services such as child care, residential support and family planning.

[Order 975, § 388-52-163, filed 10/11/74.]

**WAC 388-52-166 Comprehensive employment and training program--Participation of recipient.** (1) If an AFDC participant is certified and assigned to the CETA program by WIN, WIN rules regarding participation requirements are applicable.

(2) He/she is required to participate only if assigned by WIN/E&T.

[Statutory Authority: RCW 74.08.090. 81-10-011 (Order 1643), § 388-52-166, filed 4/27/81; 79-03-013 (Order 1368), § 388-52-166, filed 2/15/79; Order 975, § 388-52-166, filed 10/11/74.]

**WAC 388-52-169 Treatment of recipient's income from CETA.** (1) An individual receiving a CETA basic training allowance shall not concurrently receive an AFDC or continuing general assistance grant.

(2) For incentive payments and wages under Title I of CETA see WAC 388-28-570 (2)(b) and 388-28-515 (2)(c).

(3) For payments received from CETA for training expenses see WAC 388-28-578(1).

(4) If payments are received from CETA for purposes other than those cited in subsections (1), (2), and (3), WAC 388-28-578 is applicable.

(5) For wages and salaries received for public service employment under CETA see WAC 388-28-570 (2)(b)(i).

[Order 975, § 388-52-169, filed 10/11/74.]

**WAC 388-52-172 Release of information to prime sponsors of CETA program.** When information in regard to an individual's public assistance status is requested from CETA staff, the policies in WAC 388-48-010, 388-48-030, and 388-48-070 are applicable.

[Order 975, § 388-52-172, filed 10/11/74.]

**Chapter 388-53 WAC  
DISASTER AND RELIEF PROGRAM--  
INDIVIDUAL AND FAMILY GRANT**

WAC	
388-53-010	Purpose.
388-53-020	Definitions.
388-53-030	Authorization of program.
388-53-040	Administrative procedures.
388-53-050	Eligibility for grants.
388-53-060	Allocation of funds.
388-53-070	Expenditures and payments.
388-53-080	Organization and functions.
388-53-090	Administrative panel.
388-53-100	Appeal process--GCO reconsideration.
388-53-120	Administrative plan review.

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

388-53-110 State appeal panel. [Order 1104, § 388-53-110, filed 3/11/76.] Repealed by 80-04-039 (Order 1494), filed 3/20/80. Statutory Authority: RCW 38.52.030.

**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 388-53-060 Allocation of funds.** (1) The Federal share of a grant to an individual or a family under this section shall be equal to 75 per centum of the actual cost of meeting such an expense or need and shall be made only on condition that the remaining 25 per centum of such cost is paid to such individual or family from funds made available by a state. Where a state is unable immediately to pay its share, the president is authorized to advance to such state such 25 per centum share, and any such advance is to be repaid to the United States when such state is able to do so. No individuals and no family shall receive any grant or grants under this section aggregating more than \$5,000 with respect to any one major disaster.

(2) A state may expend not to exceed 3 per centum of any grant made by the President to it for expenses of administering grants to individuals and families under this section.

[Order 1104, § 388-53-060, filed 3/11/76.]

**WAC 388-53-070 Expenditures and payments.** (1) Grant payments shall be processed by means of state form A-19 (invoice voucher) appropriately coded to identify the charges to individuals and family grant program. Each voucher shall be supported by attaching a copy of the approved grant application. The original approved grant application and a copy of the payment voucher shall be filed in the case record folder.

(2) Vouchers shall be transmitted to the central disbursements section daily through the usual transmittal procedures. Separate voucher transmittals shall be made for individual and family grant program payments in order to expedite priority processing of the payments.

[Statutory Authority: RCW 38.52.030. 80-04-039 (Order 1494), § 388-53-070, filed 3/20/80; Order 1104, § 388-53-070, filed 3/11/76.]

**WAC 388-53-080 Organization and functions.** All state agencies charged with responsibilities under this plan will 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 388-53A WAC

## TEMPORARY HOUSING PROGRAM--LIMITED TO GOVERNOR'S REQUEST FOR FEDERAL ASSISTANCE

### WAC

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**WAC 388-53A-010 Purpose.** The purpose of this plan is to set forth the administrative procedures and describe the organization for implementing the temporary housing program. This program may be requested by the governor after the president declares an emergency or major disaster in the state of Washington. The governor of Washington has designated the state department of emergency services as the responsible state coordinating agency. The department of social and health services by agreement will administer the temporary housing program in Washington.

[Statutory Authority: RCW 38.52.030, 79-06-082 (Order 1404), § 388-53A-010, filed 6/1/79.]

**WAC 388-53A-020 Definitions.** (1) "Secretary" shall mean the secretary of the department of social and health services. "Director" is the director of the department of emergency services.

(2) "Department" shall mean the department of social and health services, or the department of emergency services, whichever applies.

(3) "Act" shall mean chapter 38.52 RCW.

(4) "Necessary expense" means the cost of an item or service essential to an individual or family to mitigate or overcome an adverse condition caused by a major disaster.

(5) "Serious need" means a requirement for an item or service essential to an individual or family to prevent or reduce hardship, injury, or loss caused by a major disaster.

(6) "Family" means a social unit comprised of husband, and wife and dependents, if any, or a head of household, as these terms are defined in the Internal Revenue Code of 1954.

(7) "Individual" means a person who is not a member of a family as defined in subsection (6) of this section.

(8) "Assistance from other means" means assistance including monetary or in-kind contributions from other

governmental programs, insurance, voluntary or charitable organizations, or from any sources other than those of the individual or family.

(9) "Federal coordinating officer" (FCO) means the person appointed by the administrator, FDAA, to coordinate federal assistance in a major disaster.

(10) "State coordinating officer" (SCO) means the individual appointed by the governor to coordinate state and local disaster assistance efforts with those of the federal government.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-020, filed 6/1/79.]

**WAC 388-53A-030 Authorization of program.** The program is authorized by Public Law 93-288 (the Disaster Relief Act of 1974) and Federal Disaster Assistance Administration Regulations, 24 CFR 2205. Section 404 of Public Law 93-288 provides for temporary housing to individuals and families who, as a result of a presidentially declared emergency or major disaster are without adequate housing. Chapter 38.52 RCW places responsibility for determining eligibility standards for disaster relief programs administered by the state with the department of social and health services.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-030, filed 6/1/79.]

**WAC 388-53A-040 Administrative procedures.** The state coordinating officer (SCO) will be the governor's authorized representative for the implementation of the temporary housing program. The state department of emergency services has been designated by the governor as the responsible state coordinating agency to administer the provisions of the federal disaster laws.

(1) Public Law 93-288, Section 404, provides for temporary housing to individuals and families who have become homeless and require temporary housing as a result of an emergency or major disaster.

(2) Upon a declaration of an emergency or major disaster by the president, the governor may request temporary housing assistance from the Federal Disaster Assistance Administration (FDAA).

(3) The department of emergency services shall be responsible for preparing the governor's request in accordance with 24 CFR 2205.45.

(4) When agreed to by the governor and regional director of the FDAA, the state shall administer the temporary housing program. The state coordinating officer, department of emergency services, and the bureau of income maintenance, department of social and health services, shall coordinate the necessary actions to place in operation the provisions and administrative policies and procedures for the temporary housing program.

(5) The department of emergency services, acting as the designated responsible state coordinating agency, will arrange for the procurement and make habitable, temporary housing provided by the federal government in conformity with the state/federal agreement and Public Law 93-288.

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(6) Chapter 38.52 RCW makes the department of social and health services responsible for establishing eligibility standards for applicants for assistance under the state-administered temporary housing program.

(7) The program will be administered in conformity with provisions of Sections 2205.13, 2205.15, 2205.18 and 2205.45 of the Federal Disaster Assistance Regulations.

(8) Eligibility criteria will conform to Section 2205.45 and such requirements as the department of social and health services may require not inconsistent with the provision in the above listed sections of the federal regulations, and in accordance with chapter 38.52 RCW.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-040, filed 6/1/79.]

**WAC 388-53A-050 Program eligibility.** (1) In order to qualify for temporary housing under this section, an individual or family representative must certify to one of the following:

(a) Their dwelling has been destroyed as a result of a disaster.

(b) Their dwelling has been damaged or utility service has been interrupted to such an extent as to constitute a health or safety hazard which did not exist prior to the disaster.

(c) Their dwelling has been made inaccessible due to the disruption or destruction of transportation routes or facilities, or due to other impediments to access.

(d) Their dwelling has been made inaccessible by restrictions on travel or movement imposed or recommended by a responsible official.

(e) Their dwelling is no longer available due to eviction or dispossession of the applicant by the owner because of the owner's personal need for that dwelling as a result of a disaster.

(f) They have been evicted from their dwelling by the owner or mortgage holder because of their financial hardship which is a direct result of the disaster; or

(g) Other circumstances resulting from a disaster prevent an individual or family from occupying a dwelling which they occupied immediately prior to the disaster.

(2) Income and resources of applicants for temporary housing shall be exempted from consideration in determining eligibility for a temporary period not to exceed one year or such time as is necessary to restore them to independence as provided by RCW 74.04.005 (11)(g) and 74.04.265. An applicant/recipient shall be considered restored to independence when he/she no longer meets the requirements for continued eligibility as specified in WAC 388-53A-060.

(3) Eligible categories. Assistance may be made available to meet temporary housing needs by providing goods and services for the following:

(a) Mobile homes;

(b) Pad rental;

(c) All utilities and connections;

(d) Blocking, winterization and other installations necessary to ensure compliance with applicable state and local codes;

(e) Maintenance on mobile home agreed to by eligible occupant and owner;

(f) Required state inspections of accommodations.

(4) Ineligible categories. Temporary housing assistance will not be made available under the following conditions:

(a) When insurance coverage provides for the full cost of alternate living arrangements and where such alternate living arrangements are readily available;

(b) When the dwelling from which the applicant/recipient was displaced was used as a vacation or recreational residence.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-050, filed 6/1/79.]

**WAC 388-53A-060 Program eligibility review.** (1) A periodic eligibility review for continued occupancy in temporary housing shall be made no less frequently than every ninety days.

(2) Continued occupancy shall be determined on the basis of need as specified in WAC 388-53A-070.

(3) Each occupant shall be notified of his/her eligibility or ineligibility.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-060, filed 6/1/79.]

**WAC 388-53A-070 Criteria for continued eligibility.** (1) A temporary housing occupant shall endeavor to place himself/herself in alternate housing at the earliest possible time.

(2) A temporary housing occupant shall be eligible for continued assistance when:

(a) Alternate housing is not available to the occupant. Alternate housing is deemed available when it:

(i) Is sufficient in size to accommodate the family;

(ii) Is free of health and safety hazards;

(iii) Is located such that the occupants may commute to their place(s) of employment, schools, and other centers of family activity within usual and customary commutation time periods effective in the area;

(iv) Is within the financial means of the occupant, based on twenty-five percent of adjusted household income. Occupants who qualify for available low-income or other governmental rent subsidies shall be considered able to assume financial responsibility for similar alternate housing. Housing costs shall include utilities costs, and adjusted household income shall be computed using the total gross income of household members (excluding the earnings of persons under eighteen, except where such persons are head of the household or a spouse), with the following exceptions:

(A) Twenty-five dollars per month for each person under eighteen or full-time student over eighteen except when such an individual is a head of household;

(B) Twenty-five dollars per month for each elderly (over sixty-two, or handicapped adult, except where they are head of the household); and

(C) Expenses resulting from unusual financial demands upon a household, as approved by the CSO administrator or his/her designee.

(v) Does not impose an undue burden upon the occupant in his/her plans to secure permanent housing.

(b) The occupant is in compliance with the terms of the rental contract/agreement including:

(i) Prompt payment of utility, rent, and other appropriate charges;

(ii) Reimbursement to the government where all or a portion of the temporary housing assistance represents a duplication of benefits or for other charges as authorized by the CSO administrator or his/her designee;

(iii) Maintenance of the temporary housing unit in a manner normally expected of a tenant; and

(iv) Utilization of the unit for purposes of a family dwelling, solely for the occupant's household.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-070, filed 6/1/79.]

**WAC 388-53A-080 Termination of temporary housing.** (1) Temporary housing assistance may be terminated on a thirty-day written notice.

(2) Temporary housing assistance may be terminated for reasons including, but not limited to the following:

(a) A determination has been made through the recertification process that alternate housing is available to the occupant.

(b) Failure on the part of the occupant to utilize or maintain the temporary housing provided in the manner normally expected of a tenant. Normal wear and tear excepted, the occupant shall be liable for all damages to the property.

(c) Determination that the temporary housing assistance was obtained either through misrepresentation or fraud.

(3) No mobile home rent shall be charged during the first twelve months of occupancy.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-080, filed 6/1/79.]

**WAC 388-53A-090 Allocation of funds.** The amount and type of the federal share of temporary housing assistance shall be in accordance with the federal/state disaster relief agreement.

(1) The federal share of temporary housing may be made by financial assistance or contributions in-kind, depending on the request of the governor.

(2) The federal government may make available mobile homes or other readily fabricated dwellings to the state on the condition that the state or local government provide sites complete with utilities.

(3) The state may make available funds to provide for mobile home or other dwelling site preparation, utilities, rental, maintenance, or other item necessary to ensure habitability.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-090, filed 6/1/79.]

**WAC 388-53A-100 Organization and functions.** All state agencies charged with responsibilities under this chapter will ensure compliance with Section 2205.13, Nondiscrimination in Disaster Assistance, and Section

2205.15, Duplication of Benefits, of the FDAA regulations.

(1) When deemed necessary, the secretary of the department of social and health services shall publicize the availability of the temporary housing program to potential applicants.

(a) Notifying local governments, welfare related agencies, and civic and church groups; and

(b) Establishing outreach programs.

(2) The secretary of social and health services will be responsible for interviewing applicants, receiving applications, and establishing case files. Applications for temporary housing shall be taken for sixty days following a presidentially declared emergency or major disaster. The interviewer will fully explain the scope and purpose of this program to each applicant.

(3) The secretary of social and health services will be responsible for verification of the need for temporary housing for which assistance has been requested.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-100, filed 6/1/79.]

**WAC 388-53A-110 Eligibility determinations.** (1) All determinations shall be made in accordance with the eligibility criteria in WAC 388-53A-060 and 388-53A-070.

(2) Eligibility for the temporary housing program shall be determined by an authorized DSHS employee in accordance with criteria set forth in this chapter.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-110, filed 6/1/79.]

**WAC 388-53A-120 Notification of approval or disapproval.** The department of social and health services will notify every application by letter of the eligibility determination made on the application.

(1) In the case of approval, the letter will state that the application has been approved, and the purpose for which the temporary housing assistance has been made.

(2) In the case of disapproval, the letter will state that the application has been disapproved and the reasons for disapproval.

(3) In both cases, the letter will inform the applicant of the right to request reconsideration within fifteen days from the date the letter was sent.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-120, filed 6/1/79.]

**WAC 388-53A-130 Reconsideration process.** (1) Each applicant will be provided an opportunity to have a temporary housing assistance determination reviewed and reconsidered by the state upon submission of additional information.

(2) The state reconsideration panel will reconsider an applicant's temporary housing assistance determination and within fifteen calendar days of receipt of the reconsideration request render a decision either approving or denying it.

(3) Each applicant will be notified by letter of the result of his request for reconsideration. The determination letter must be dated and sent to the applicant one day

after the reconsideration decision. The letter must inform the applicant of the right to appeal within twenty days from the date the letter was sent.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-130, filed 6/1/79.]

**WAC 388-53A-140 State appeal.** Should an applicant not agree with the state reconsideration panel determination of the reconsideration request, an appeal must be filed within twenty days.

The department of social and health services will conduct an appeal hearing and render a decision either approving or denying within fifteen calendar days of receipt by the department of social and health services. Each applicant will be notified by letter of the result of his appeal. The appeal decision letter must be dated and sent to the appellant one day after the appeal decision was made.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-140, filed 6/1/79.]

## Chapter 388-54 WAC FOOD ASSISTANCE PROGRAMS

### WAC

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388-54-625	Application and participation—Time limits.
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388-54-635	Application and participation—Authorized representative.
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388-54-660	Application and participation—Special circumstances for participation.
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388-54-728	Income eligibility.
388-54-730	Income—Eligibility standards.
388-54-735	Income—Exclusions.
388-54-737	Income—Energy allowance.
388-54-740	Income—Deductions.
388-54-745	Income—Budgeting.
388-54-750	Income—Self-employment.
388-54-755	Income—Boarders.



2205.15, Duplication of Benefits, of the FDAA regulations.

(1) When deemed necessary, the secretary of the department of social and health services shall publicize the availability of the temporary housing program to potential applicants.

(a) Notifying local governments, welfare related agencies, and civic and church groups; and

(b) Establishing outreach programs.

(2) The secretary of social and health services will be responsible for interviewing applicants, receiving applications, and establishing case files. Applications for temporary housing shall be taken for sixty days following a presidentially declared emergency or major disaster. The interviewer will fully explain the scope and purpose of this program to each applicant.

(3) The secretary of social and health services will be responsible for verification of the need for temporary housing for which assistance has been requested.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-100, filed 6/1/79.]

**WAC 388-53A-110 Eligibility determinations.** (1) All determinations shall be made in accordance with the eligibility criteria in WAC 388-53A-060 and 388-53A-070.

(2) Eligibility for the temporary housing program shall be determined by an authorized DSHS employee in accordance with criteria set forth in this chapter.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-110, filed 6/1/79.]

**WAC 388-53A-120 Notification of approval or disapproval.** The department of social and health services will notify every application by letter of the eligibility determination made on the application.

(1) In the case of approval, the letter will state that the application has been approved, and the purpose for which the temporary housing assistance has been made.

(2) In the case of disapproval, the letter will state that the application has been disapproved and the reasons for disapproval.

(3) In both cases, the letter will inform the applicant of the right to request reconsideration within fifteen days from the date the letter was sent.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-120, filed 6/1/79.]

**WAC 388-53A-130 Reconsideration process.** (1) Each applicant will be provided an opportunity to have a temporary housing assistance determination reviewed and reconsidered by the state upon submission of additional information.

(2) The state reconsideration panel will reconsider an applicant's temporary housing assistance determination and within fifteen calendar days of receipt of the reconsideration request render a decision either approving or denying it.

(3) Each applicant will be notified by letter of the result of his request for reconsideration. The determination letter must be dated and sent to the applicant one day

after the reconsideration decision. The letter must inform the applicant of the right to appeal within twenty days from the date the letter was sent.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-130, filed 6/1/79.]

**WAC 388-53A-140 State appeal.** Should an applicant not agree with the state reconsideration panel determination of the reconsideration request, an appeal must be filed within twenty days.

The department of social and health services will conduct an appeal hearing and render a decision either approving or denying within fifteen calendar days of receipt by the department of social and health services. Each applicant will be notified by letter of the result of his appeal. The appeal decision letter must be dated and sent to the appellant one day after the appeal decision was made.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-140, filed 6/1/79.]

## Chapter 388-54 WAC FOOD ASSISTANCE PROGRAMS

WAC	
388-54-600	Purpose of program.
388-54-601	Definitions.
388-54-605	General food stamp provisions.
388-54-610	Application and participation—Initiating the application.
388-54-615	Application and participation—Applications processed by the Social Security Administration district offices (SSADO).
388-54-620	Application and participation—Interview.
388-54-625	Application and participation—Time limits.
388-54-630	Application and participation—Verification.
388-54-635	Application and participation—Authorized representative.
388-54-640	Application and participation—Opportunity to participate.
388-54-645	Application and participation—Expedited service.
388-54-650	Application and participation—Participation of public assistance households.
388-54-655	Application and participation—Destitute households.
388-54-660	Application and participation—Special circumstances for participation.
388-54-665	Household determination.
388-54-670	Student eligibility.
388-54-675	Work registration and job search.
388-54-676	Workfare.
388-54-677	Voluntary quit.
388-54-679	Strikers.
388-54-680	Citizenship and alien status.
388-54-685	Residency.
388-54-687	Social Security number (SSN).
388-54-690	Resources—Allowable maximums.
388-54-695	Resources—Exempt.
388-54-715	Resources—Nonexempt.
388-54-717	Resources—Vehicles.
388-54-720	Resources—Transfer of property.
388-54-725	Income—Definitions.
388-54-728	Income eligibility.
388-54-730	Income—Eligibility standards.
388-54-735	Income—Exclusions.
388-54-737	Income—Energy allowance.
388-54-740	Income—Deductions.
388-54-745	Income—Budgeting.
388-54-750	Income—Self-employment.
388-54-755	Income—Boarders.

- 388-54-760 Certification periods.  
 388-54-765 Certification periods—Notices to households.  
 388-54-768 Food stamp monthly reporting.  
 388-54-770 Certification periods—Households responsibility to report.  
 388-54-775 Certification periods—Effecting changes under prospective budgeting.  
 388-54-776 Certification periods—Effecting changes during the certification period under retrospective budgeting.  
 388-54-780 Recertification process.  
 388-54-785 Issuance—Monthly allotments.  
 388-54-790 Issuance—Use and redemption.  
 388-54-795 Issuance—Identification cards.  
 388-54-800 Issuance—Replacement allotments.  
 388-54-805 Issuance—Restoration of lost benefits.  
 388-54-815 Conference.  
 388-54-817 Administrative hearings.  
 388-54-820 Fair hearings—Continuation of benefits pending.  
 388-54-82650 Intentional program violation disqualification penalties.  
 388-54-83050 Treatment of income and resources of excluded members.  
 388-54-850 Overpayments.
- DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**
- 388-54-010 Eligibility and authorization. [Order 252, § 388-54-010, filed 11/1/67; Regulation 21.10, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.  
 388-54-020 Eligible needy households—General. [Order 252, § 388-54-020, filed 11/1/67; Regulation 21.20, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.  
 388-54-025 Eligible needy households—Recipients of public assistance grants. [Order 252, § 388-54-025, filed 11/1/67; Regulation 21.21, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.  
 388-54-030 Eligible needy households—Nonrecipients of public assistance grants. [Order 252, § 388-54-030, filed 11/1/67; Regulation 21.22, filed 12/31/65, effective 2/1/66; Regulation 21.22, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.  
 388-54-040 Student applicant. [Order 252, § 388-54-040, filed 11/1/67; Regulation 21.221, filed 12/31/65, effective 2/1/66; Regulation 21.221, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.  
 388-54-045 Treatment of allowances provided under U.S. Department of Labor and other government-sponsored training programs. [Order 252, § 388-54-045, filed 11/1/67; Regulation 21.222, filed 12/31/65, effective 2/1/66.] Repealed by Order 350, filed 5/28/69.  
 388-54-060 Certification of eligibility—Recipient of continuing assistance or recipient in suspended grant status. [Order 252, § 388-54-060, filed 11/1/67; Regulation 21.31, filed 12/31/65, effective 2/1/66; Regulation 21.31, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.  
 388-54-070 Recipient of noncontinuing assistance. [Order 252, § 388-54-070, filed 11/1/67; Regulation 21.32, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.  
 388-54-080 Nonrecipient of assistance. [Order 252, § 388-54-080, filed 11/1/67; Regulation 21.33, filed 12/31/65, effective 2/1/66; Regulation 21.33, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.  
 388-54-110 Authorization process—Recipient of continuing public assistance grant. [Order 252, § 388-54-110, filed 11/1/67; Regulation 21.41, filed 12/31/65, effective 2/1/66; Regulation 21.41, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.  
 388-54-120 Authorization process—Recipient of noncontinuing assistance. [Order 252, § 388-54-120, filed 11/1/67; Regulation 21.42, filed 12/31/65, effective 2/1/66; Regulation 21.42, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.  
 388-54-130 Authorization process—Persons not receiving assistance. [Order 252, § 388-54-130, filed 11/1/67; Regulation 21.43, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.  
 388-54-140 Authorization process—Exceptions. [Order 252, § 388-54-140, filed 11/1/67; Regulation 21.44, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.  
 388-54-150 Civil rights. [Order 252, § 388-54-150, filed 11/1/67; Regulation 21.50, effective 2/1/66, filed 12/31/65.] Repealed by Order 350, filed 5/28/69.  
 388-54-300 Food stamp program. [Order 429, § 388-54-300, filed 3/17/70; Order 252, § 388-54-300, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 543, filed 3/31/71, effective 5/1/71.  
 388-54-305 Food stamp program—General terms and conditions. [Order 429, § 388-54-305, filed 3/17/70; Order 343, § 388-54-305, filed 3/20/69; Order 252, § 388-54-305, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 543, filed 3/31/71, effective 5/1/71.  
 388-54-310 Food stamp program—Administration. [Order 429, § 388-54-310, filed 3/17/70; Order 315, § 388-54-310, filed 10/31/68; Order 252, § 388-54-310, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 543, filed 3/31/71, effective 5/1/71.  
 388-54-315 Food stamp program—Eligibility standards. [Order 543, § 388-54-315, filed 3/31/71, effective 5/1/71; Order 515, § 388-54-315, filed 1/22/71; Order 498, § 388-54-315, filed 12/2/70; Order 470, § 388-54-315, filed 8/19/70; Order 451, § 388-54-315, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-315, filed 3/17/70; Order 315, § 388-54-315, filed 10/31/68; Order 252, § 388-54-315, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.  
 388-54-320 Food stamp program—Application—Certification—Review—Recertification—Cancellation. [Order 600, § 388-54-320, filed 9/8/71; Order 588, § 388-54-320, filed 8/18/71; Order 568, § 388-54-320, filed 5/19/71; Order 543, § 388-54-320, filed 3/31/71, effective 5/1/71; Order 515, § 388-54-320, filed 1/22/71; Order 478, § 388-54-320, filed 9/8/70; Order 470, § 388-54-320, filed 8/19/70; Order 451, § 388-54-320, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-320, filed 3/17/70; Order 315, § 388-54-320, filed 10/31/68; Order 252, § 388-54-320, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.  
 388-54-325 Food stamp program—Basis of coupon issuance. [Order 543, § 388-54-325, filed 3/31/71, effective 5/1/71; Order 451, § 388-54-325, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-325, filed 3/17/70; Order 252, § 388-54-325, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.  
 388-54-330 Food stamp program—Issuance and sales of coupons. [Order 543, § 388-54-330, filed 3/31/71, effective 5/1/71; Order 491, § 388-54-330, filed 10/30/70, effective 12/1/70; Order 451, § 388-54-330, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-330, filed 3/17/70; Order 252, § 388-54-330, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.  
 388-54-335 Food stamp program—Payment of certain certification costs. [Order 252, § 388-54-335, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 429, filed 3/17/70.  
 388-54-340 Food stamp program—Civil rights assurance. [Order 543, § 388-54-340, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-340, filed 3/17/70; Order 252, § 388-54-340, filed 11/1/67; Supp. food stamp plan

- (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-345 Food stamp program—Nonassistance household—Income and resources standard. [Order 543, § 388-54-345, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-345, filed 3/17/70; Order 413, § 388-54-345, filed 12/23/69. Order 252, § 388-54-345, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-350 Food stamp program—Nonassistance household—Definitions. [Order 588, § 388-54-350, filed 8/18/71; Order 543, § 388-54-350, filed 3/31/71, effective 5/1/71; Order 470, § 388-54-350, filed 8/19/70; Order 429, § 388-54-350, filed 3/17/70; Order 252, § 388-54-350, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-355 Food stamp program—Hardship provisions. [Order 543, § 388-54-355, filed 3/31/71, effective 5/1/71; Order 515, § 388-54-355, filed 1/22/71; Order 451, § 388-54-355, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-355, filed 3/17/70; Order 252, § 388-54-355, filed 11/1/67.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-360 Food stamp program—Nonassistance household—Student applicant. [Order 600, § 388-54-360, filed 9/8/71; Order 568, § 388-54-360, filed 5/19/71; Order 543, § 388-54-360, filed 3/31/71, effective 5/1/71; Order 515, § 388-54-360, filed 1/22/71; Order 429, § 388-54-360, filed 3/17/70; Order 349, § 388-54-360, filed 5/28/69; Order 252, § 388-54-360, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-365 Food stamp program—Nonassistance household—Treatment of allowances from department of labor and other government sponsored training programs. [Order 543, § 388-54-365, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-365, filed 3/17/70; Order 379, § 388-54-365, filed 8/7/69; Order 325, § 388-54-365, filed 11/27/68; Order 315, § 388-54-365, filed 10/31/68; Order 252, § 388-54-365, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-370 Food stamp program—Nonassistance household—Treatment of earned income under Title 1 of Elementary and Secondary Education Act, amendments of 1966. [Order 543, § 388-54-370, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-370, filed 3/17/70; Order 325, § 388-54-370, filed 11/27/68; Order 315, § 388-54-370, filed 10/31/68; Order 252, § 388-54-370, filed 11/1/67.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-375 Food stamp program—Nonassistance household—Treatment of income from certain programs authorized or financed by Economic Opportunity Act of 1964. [Order 543, § 388-54-375, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-375, filed 3/17/70; Order 325, § 388-54-375, filed 11/27/68; Order 315, § 388-54-375, filed 10/31/68; Order 252, § 388-54-375, filed 11/1/67.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-376 Food stamp program—Nonassistance household—Treatment of earned income—Child or adult AFDC recipient. [Order 600, § 388-54-376, filed 9/8/71; Order 543, § 388-54-376, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-376, filed 3/17/70.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-377 Food stamp program—Ineligible receipt of food coupons. [Order 543, § 388-54-377, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-377, filed 3/17/70; Order 349, § 388-54-377, filed 5/28/69; Order 325, § 388-54-377, filed 11/27/68; Order 283, § 388-54-377, filed 3/6/68.] Repealed by Order 568, filed 5/19/71.
- 388-54-378 Food stamp program—Unused coupons—Disposition. [Order 543, § 388-54-378, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-378, filed 3/17/70; Order 330, § 388-54-378, filed 1/8/69; Order 283, § 388-54-378, filed 3/6/68.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-380 Food stamp program—Monthly basis of issuance—Continuing and noncontinuing assistance households. [Order 252, § 388-54-380, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 451, filed 5/20/70, effective 6/15/70.
- 388-54-385 Food stamp program—Net monthly income basis of coupon issuance table. [Order 543, § 388-54-385, filed 3/31/71, effective 5/1/71; Order 451, § 388-54-385, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-385, filed 3/17/70; Order 343, § 388-54-385, filed 3/20/69; Order 252, § 388-54-385, filed 11/1/67.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-390 Food stamp program—Ineligible receipt of food coupons. [Order 568, § 388-54-390, filed 5/19/71.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-393 Food stamp program—Ineligible receipt of food coupons—Liability for repayment. [Order 568, § 388-54-393, filed 5/19/71.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-396 Food stamp program—Ineligible receipt of food coupons—Collection of claims. [Order 568, § 388-54-396, filed 5/19/71.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-399 Food stamp program—Ineligible receipt of food coupons—Eligibility—claim unpaid. [Order 568, § 388-54-399, filed 5/19/71.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-405 Food stamp program—General provisions. [Order 1021, § 388-54-405, filed 4/29/75; Order 992, § 388-54-405, filed 12/31/74; Order 660, § 388-54-405, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-410 Application—Assistance household. [Order 931, § 388-54-410, filed 4/25/74; Order 660, § 388-54-410, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-415 Nonassistance household. [Order 660, § 388-54-415, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-420 Authorized representative. [Order 992, § 388-54-420, filed 12/31/74; Order 660, § 388-54-420, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-425 Eligibility standards—General. [Order 931, § 388-54-425, filed 4/25/74; Order 660, § 388-54-425, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-430 Eligibility standards—Residence. [Order 992, § 388-54-430, filed 12/31/74; Order 660, § 388-54-430, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-432 Eligibility standards—Boarding house—Institution. [Order 992, § 388-54-432, filed 12/31/74; Order 660, § 388-54-432, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-435 Eligibility standards—Cooking facilities. [Order 992, § 388-54-435, filed 12/31/74; Order 660, § 388-54-435, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.

- 388-54-440 Eligibility standards—Household determination. [Order 1063, § 388-54-440, filed 10/23/75; Order 1021, § 388-54-440, filed 4/29/75; Order 992, § 388-54-440, filed 12/31/74; Order 809, § 388-54-440, filed 6/15/73; Order 704, § 388-54-440, filed 8/11/72; Order 685, § 388-54-440, filed 5/25/72; Order 660, § 388-54-440, filed 8/11/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-442 Student tax dependents. [Order 1030, § 388-54-442, filed 6/12/75.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-445 Eligibility standards—Delivered meals. [Order 660, § 388-54-445, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-448 Eligibility standards—Communal dining. [Order 992, § 388-54-448, filed 12/31/74.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-450 Eligibility standards—Tax dependents. [Order 660, § 388-54-450, filed 2/23/72, effective 4/1/72.] Repealed by Order 734, filed 11/9/72.
- 388-54-452 Eligibility standards—Drug-alcohol treatment programs. [Order 992, § 388-54-452, filed 12/31/74.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-455 Eligibility standards—Work registration requirement. [Order 992, § 388-54-455, filed 12/31/74; Order 660, § 388-54-455, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-460 Nonassistance household—Resources—Standards—Exemptions. [Order 1136, § 388-54-460, filed 7/29/76; Order 1030, § 388-54-460, filed 6/12/75; Order 1021, § 388-54-460, filed 4/29/75; Order 992, § 388-54-460, filed 12/31/74; Order 660, § 388-54-460, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-462 Earned income tax credit disregarded. [Order 1175, § 388-54-462, filed 12/8/76; Order 1121, § 388-54-462, filed 5/26/76.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-465 Nonassistance household—Nonrecurring lump-sum payments. [Order 992, § 388-54-465, filed 12/31/74; Order 660, § 388-54-465, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-470 Monthly net income. [Statutory Authority: RCW 74.04.510. 78-10-056 (Order 1342), § 388-54-470, filed 9/22/78; Statutory Authority: RCW 74.04.510 and 74.08.090. 78-06-086 (Order 1303), § 388-54-470, filed 6/2/78; Order 1249, § 388-54-470, filed 10/28/77; Order 1153, § 388-54-470, filed 9/22/76; Order 1091, § 388-54-470, filed 1/28/76; Order 1039, § 388-54-470, filed 8/7/75; Order 1030, § 388-54-470, filed 6/12/75; Order 1007, § 388-54-470, filed 2/13/75; Order 992, § 388-54-470, filed 12/31/74; Order 966, § 388-54-470, filed 8/29/74; Order 889, § 388-54-470, filed 12/27/73; Order 803, § 388-54-470, filed 5/31/73; Order 687, § 388-54-470, filed 6/1/72; Order 660, § 388-54-470, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-475 Definitions of income. [Order 1153, § 388-54-475, filed 9/22/76; Order 992, § 388-54-475, filed 12/31/74; Order 704, § 388-54-475, filed 8/11/72; Order 685, § 388-54-475, filed 5/25/72; Order 660, § 388-54-475, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-480 Income exclusions. [Statutory Authority: RCW 74.04.510. 78-10-056 (Order 1342), § 388-54-480, filed 9/22/78; 78-02-050 (Order 1266), § 388-54-480, filed 1/19/78; Order 1194, § 388-54-480, filed 3/3/77; Order 1136, § 388-54-480, filed 7/29/76; Order 1021, § 388-54-480, filed 4/29/75; Order 992, § 388-54-480, filed 12/31/74; Order 966, § 388-54-480, filed 8/29/74; Order 871, § 388-54-480, filed 11/20/73; Order 660, § 388-54-480, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-482 Tax Reduction Act of 1975 payments disregarded. [Order 1028, § 388-54-482, filed 5/29/75.] Repealed by Order 1121, filed 5/26/76. Later promulgation, see WAC 388-54-462.
- 388-54-485 Income deductions. [Statutory Authority: RCW 74.04.510. 79-01-068 (Order 1363), § 388-54-485, filed 12/29/78; 78-10-056 (Order 1342), § 388-54-485, filed 9/22/78; Statutory Authority: RCW 74.04.510 and 74.08.090. 78-06-086 (Order 1303), § 388-54-485, filed 6/2/78; Order 1245, § 388-54-485, filed 10/10/77; Order 1092, § 388-54-485, filed 1/28/76; Order 1063, § 388-54-485, filed 10/23/75; Order 1021, § 388-54-485, filed 4/29/75; Order 992, § 388-54-485, filed 12/31/74; Order 771, § 388-54-485, filed 1/26/73; Order 660, § 388-54-485, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-490 Income computation. [Order 660, § 388-54-490, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-495 Self-employment income. [Order 992, § 388-54-495, filed 12/31/74; Order 660, § 388-54-495, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-500 Farm employment income. [Statutory Authority: RCW 74.04.510. 78-12-004 (Order 1356), § 388-54-500, filed 11/6/78; Order 660, § 388-54-500, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-505 Nonassistance household—Verification of eligibility. [Statutory Authority: RCW 74.04.510. 78-12-004 (Order 1356), § 388-54-505, filed 11/6/78; Statutory Authority: RCW 74.04.510 and 74.08.090. 78-06-086 (Order 1303), § 388-54-505, filed 6/2/78; Order 1030, § 388-54-505, filed 6/12/75; Order 992, § 388-54-505, filed 12/31/74; Order 660, § 388-54-505, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-507 Preliminary certification. [Statutory Authority: RCW 74.04.510. 78-12-004 (Order 1356), § 388-54-507, filed 11/6/78.] Repealed by 80-10-043 (Order 1529), filed 8/6/80. Statutory Authority: RCW 74.04.510.
- 388-54-509 Special certification for migrant farm laborers. [Statutory Authority: RCW 74.04.510. 78-12-004 (Order 1356), § 388-54-509, filed 11/6/78.] Repealed by 80-10-043 (Order 1529), filed 8/6/80. Statutory Authority: RCW 74.04.510.
- 388-54-510 Certification. [Statutory Authority: RCW 74.04.510. 79-01-085 (Order 1364), § 388-54-510, filed 1/3/79; Order 992, § 388-54-510, filed 12/31/74; Order 660, § 388-54-510, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-515 Certification—Changes during certification period—Reporting. [Order 1080, § 388-54-515, filed 12/24/75; Order 992, § 388-54-515, filed 12/31/74; Order 734, § 388-54-515, filed 11/9/72; Order 660,

- § 388-54-515, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-520 Certification—Effecting changes during certification period. [Order 1080, § 388-54-520, filed 12/24/75; Order 992, § 388-54-520, filed 12/31/74; Order 660, § 388-54-520, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-525 Advance notice—Expiration or adverse action. [Statutory Authority: RCW 74.04.510. 78-11-046 (Order 1352), § 388-54-525, filed 10/20/78; Order 992, § 388-54-525, filed 12/31/74; Order 660, § 388-54-525, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-526 Conference procedure. [Order 869, § 388-54-526, filed 11/1/73.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-527 Participation during appeals. [Order 992, § 388-54-527, filed 12/31/74; Order 869, § 388-54-527, filed 11/1/73.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-528 Adjustments after hearing decision. [Order 924, § 388-54-528, filed 4/15/74; Order 869, § 388-54-528, filed 11/1/73.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-530 Recertification. [Order 660, § 388-54-530, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-535 Transfer of certification and lost benefits. [Statutory Authority: RCW 74.04.510. 78-05-064 (Order 1291), § 388-54-535, filed 4/27/78; Order 660, § 388-54-535, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-540 Basis of coupon issuance. [Statutory Authority: RCW 74.04.510. 78-10-056 (Order 1342), § 388-54-540, filed 9/22/78; Statutory Authority: RCW 74.04.510 and 74.08.090. 78-06-086 (Order 1303), § 388-54-540, filed 6/2/78; Order 1249, § 388-54-540, filed 10/28/77; Order 1153, § 388-54-540, filed 9/22/76; Order 1091, § 388-54-540, filed 1/28/76; Order 1039, § 388-54-540, filed 8/7/75; Order 1007, § 388-54-540, filed 2/13/75; Order 966, § 388-54-540, filed 8/29/74; Order 889, § 388-54-540, filed 12/27/73; Order 803, § 388-54-540, filed 5/31/73; Order 687, § 388-54-540, filed 6/1/72; Order 660, § 388-54-540, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-545 Identification card. [Order 660, § 388-54-545, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-550 Authorization to purchase. [Order 660, § 388-54-550, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-555 Food coupon issuance and sales—Variable purchase. [Order 803, § 388-54-555, filed 5/31/73; Order 702, § 388-54-555, filed 7/27/72; Order 660, § 388-54-555, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-560 Food coupon use or redemption. [Order 992, § 388-54-560, filed 12/31/74; Order 660, § 388-54-560, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-565 Ineligible receipt of food coupons. [Order 925, § 388-54-565, filed 4/15/74; Order 660, § 388-54-565, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-570 Ineligible receipt of food coupons—Liability for repayment. [Order 1021, § 388-54-570, filed 4/29/75; Order 660, § 388-54-570, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-575 Ineligible receipt of food coupons—Collection of claim. [Order 869, § 388-54-575, filed 11/1/73; Order 660, § 388-54-575, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-580 Ineligible receipt of food coupons—Claim unpaid—Eligibility for food coupons. [Order 660, § 388-54-580, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-585 Replacement purchase. [Order 660, § 388-54-585, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-590 Cash refunds. [Order 1136, § 388-54-590, filed 7/29/76; Order 869, § 388-54-590, filed 11/1/73.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-595 Retroactive benefits. [Statutory Authority: RCW 74.04.510. 78-05-064 (Order 1291), § 388-54-595, filed 4/27/78; Order 1136, § 388-54-595, filed 7/29/76; Order 1063, § 388-54-595, filed 10/23/75; Order 924, § 388-54-595, filed 4/15/74.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-598 Offsetting unpaid claims. [Order 1136, § 388-54-598, filed 7/29/76.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-678 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), § 388-54-678, filed 5/20/81.] Repealed by 85-09-013 (Order 2222), filed 4/8/85. Statutory Authority: RCW 74.04.510.
- 388-54-700 Food distribution program—General provisions and coverage. [Order 665, § 388-54-700, filed 3/23/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-705 Food distribution program—Participation. [Order 665, § 388-54-705, filed 3/23/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-710 Food distribution program—Issuance of commodities. [Order 665, § 388-54-710, filed 3/23/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-810 Issuance—Sixty day continuation of benefits. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-810, filed 3/1/79.] Repealed by 83-03-015 (Order 1934), filed 1/12/83. Statutory Authority: RCW 74.04.510.
- 388-54-821 Complaints. [Statutory Authority: RCW 74.04.510. 81-17-023 (Order 1688), § 388-54-821, filed 8/12/81.] Repealed by 83-21-011 (Order 2032), filed 10/6/83. Statutory Authority: RCW 74.04.510.
- 388-54-825 Fraud disqualification. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-825, filed 3/1/79.] Repealed by 79-10-084 (Order 1435), filed 9/21/79. Statutory Authority: RCW 74.04.510. Later promulgation, see WAC 388-54-826, 388-54-827, and 388-54-828.
- 388-54-826 Fraud disqualification—Administrative fraud hearing determined. [Statutory Authority: RCW 74.04.510. 81-23-044 (Order 1720), § 388-54-826, filed 11/18/81; 80-10-043 (Order 1529), § 388-54-826, filed 8/6/80; 79-10-084 (Order 1435), § 388-54-826, filed 9/21/79.] Repealed by 83-21-011 (Order

- 2032), filed 10/6/83. Statutory Authority: RCW 74.04.510.
- 388-54-827 Fraud administrative hearing—Decision rendering process. [Statutory Authority: RCW 74.04.510. 79-10-084 (Order 1435), § 388-54-827, filed 9/21/79.] Repealed by 83-21-011 (Order 2032), filed 10/6/83. Statutory Authority: RCW 74.04.510.
- 388-54-828 Fraud disqualification—Court imposed. [Statutory Authority: RCW 74.04.510. 80-10-043 (Order 1529), § 388-54-828, filed 8/6/80; 79-10-084 (Order 1435), § 388-54-828, filed 9/21/79.] Repealed by 83-21-011 (Order 2032), filed 10/6/83. 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.
- 388-54-830 Treatment of income and resources of disqualified members. [Statutory Authority: RCW 74.04.510. 82-24-005 (Order 1905), § 388-54-830, filed 11/18/82; 81-23-044 (Order 1720), § 388-54-830, filed 11/18/81; 79-03-033 (Order 1374), § 388-54-830, filed 3/1/79.] Repealed by 83-21-011 (Order 2032), filed 10/6/83. Statutory Authority: RCW 74.04.510.
- 388-54-835 Claims against households—Nonfraud. [Statutory Authority: RCW 74.04.510. 82-24-005 (Order 1905), § 388-54-835, filed 11/18/82; 80-04-006 (Order 1492), § 388-54-835, filed 3/7/80; 79-03-033 (Order 1374), § 388-54-835, filed 3/1/79.] Repealed by 83-21-011 (Order 2032), filed 10/6/83. Statutory Authority: RCW 74.04.510.
- 388-54-840 Claims against households—Fraud. [Statutory Authority: RCW 74.04.510. 81-22-083 (Order 1714), § 388-54-840, filed 11/4/81; 80-10-043 (Order 1529), § 388-54-840, filed 8/6/80; 79-03-033 (Order 1374), § 388-54-840, filed 3/1/79.] Repealed by 83-21-011 (Order 2032), filed 10/6/83. Statutory Authority: RCW 74.04.510.

**WAC 388-54-600 Purpose of program.** The food stamp program is designed to promote the general welfare and to safeguard the health and well-being of the nation's population by raising the levels of nutrition among low-income households.

[Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-600, filed 3/1/79.]

**WAC 388-54-601 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) **Migrant farmworker** – A person who works in seasonal agricultural employment and is required to be absent overnight from his or her permanent place of residence.

(6) **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.

(7) **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.

(8) **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. Travel advances and income of students are treated per WAC 388-54-655 (3)(b) and 388-54-735(9), respectively.

(9) **Prospective eligibility** – The determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

(10) **Report month** – The first month of the budgeting cycle. The month for which the recipient reports his or her circumstances.

(11) **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.

(12) **Retrospective eligibility** – The determination of eligibility based on retrospective budgeting rules and other circumstances existing in the report month.

(13) **Seasonal farmworker** – A person who works in seasonal agricultural employment and is not required to be absent from his or her permanent place of residence overnight.

[Statutory Authority: RCW 74.04.510. 86-08-032 (Order 2356), § 388-54-601, filed 3/26/86; 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 388-54-610 Application and participation--Initiating the application.** (1) The department shall make

application forms readily accessible and provide one to anyone requesting it.

(2) The household must file an application by submitting the form to the food stamp office either in person, through an authorized representative, or by mail.

Households consisting exclusively of SSI applicants or recipients may file an application, have the information verified, and the form submitted by SSADO (see WAC 388-54-615).

(3) Each household has a right to file a food stamp application on forms as determined by the department on the same day it contacts the department.

(a) The department shall mail an application to any household who requests one by telephone. This shall be mailed the same day as the telephone request is received.

(b) When a written request for an application is received by the department, an application shall be mailed the same day the written request is received.

(c) If a household contacts the wrong certification office within a project area, in writing, in person or by telephone, the certification office shall:

(i) Give the household the address and telephone number of the appropriate office.

(ii) Mail the application to the appropriate office on the same day.

(4) An application can be filed as long as the application contains the applicant's name and address and is signed by an adult member of the household or authorized representative. If the household consists solely of minors, the application must be signed by a responsible member of the household or authorized representative. The household shall be informed of this fact and also informed that it does not have to be interviewed before filing the application.

(5) The household may voluntarily withdraw its application at any time prior to determination of eligibility.

(6) If a household refuses to cooperate with the CSO, the application shall be denied at the time of refusal.

(i) The household must be able to cooperate but clearly demonstrate that it will not take action.

(ii) If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied.

[Statutory Authority: RCW 74.04.510. 86-21-050 (Order 2432), § 388-54-610, filed 10/13/86; 80-14-060 (Order 1548), § 388-54-610, filed 10/1/80; 79-03-033 (Order 1374), § 388-54-610, filed 3/1/79.]

**WAC 388-54-615 Application and participation--Applications processed by the Social Security Administration district offices (SSADO).** (1) The department shall complete the certification of applications for food stamps processed by SSADO without requiring additional personal interviews with the SSI household to present verification.

(2) The department shall not initiate personal contact with the SSI household whose food stamp application is processed by SSADO unless the application is improperly completed, mandatory verification is missing or certain information on the form is questionable. In no event shall an SSI household be required to appear to finalize an eligibility determination on such an application.

(3) The department shall prescreen all SSI/SSADO processed food stamp applications for expedited services on the day the application is received at the correct CSO.

(4) The department shall:

(a) Begin the five calendar day time limit for expedited services on the date the correct CSO receives the application;

(b) Complete the certification of the SSI household application no later than thirty days after the date a completed application is filed at SSADO.

(5) The department shall reassess those households for work registration eligibility if their pending SSI financial application is rejected by SSA.

(6) Effective October 5, 1981, the department shall complete recertification of pure SSI households when such has been requested in a timely manner through, and transmitted by SSADO. The department shall inform any food stamp household consisting only of SSI-eligible members that recertification may be requested through SSADO. Subsection (2) of this section applies to the recertification process.

[Statutory Authority: RCW 74.04.510, 83-08-071 (Order 1956), § 388-54-615, filed 4/6/83; 81-22-082 (Order 1713), § 388-54-615, filed 11/4/81; 80-14-060 (Order 1548), § 388-54-615, filed 10/1/80.]

**WAC 388-54-620 Application and participation--Interview.** (1) All food stamp households 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 388-54-625 Application and participation--Time limits.** The department shall provide eligible households that complete the initial application an opportunity to participate in the program as soon as possible, but no later than thirty calendar days following the date the application was filed.

[Statutory Authority: RCW 74.04.510, 82-24-005 (Order 1905), § 388-54-625, filed 11/18/82; 79-03-033 (Order 1374), § 388-54-625, filed 3/1/79.]

**WAC 388-54-630 Application and participation--Verification.** (1) 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 388-54-635 Application and participation—Authorized representative.** (1) An authorized representative is an adult nonhousehold member sufficiently aware

of household circumstances and who has been designated in writing by the head of household, spouse or other responsible member of the household to act on behalf of the household in one or all of the following capacities:

(a) Making application. The authorized representative shall be a person who is sufficiently aware of relevant household circumstances. The head of the household or the spouse should prepare or review the application whenever possible, even though another household member or the authorized representative will actually be interviewed. The department shall inform the household that the household will be held liable for any overissue which results from erroneous information given by the authorized representative, except for residents in drug and alcohol treatment facilities.

(b) Obtaining coupons. The authorized representative for coupon issuance may be the same individual designated to make application for the household or may be another individual.

(c) Emergency situations. The household member named on the identification card may also designate an emergency authorized representative at a later date. A separate written designation is needed each time an emergency authorized representative is used.

(d) Using coupons. The authorized representative may use coupons to purchase food for the household's consumption, with the full knowledge and consent of the household, provided the authorized representative has the household's ID card.

(2) Drug addict or alcohol treatment centers and group homes as authorized representatives. Narcotic addicts or alcoholics who regularly participate in a drug or alcohol treatment program on a resident basis and disabled or blind residents of group living arrangements who receive benefits under Title II or Title XVI of the Social Security Act may elect to participate in the food stamp program.

(a) The resident of drug or alcohol treatment centers shall apply and be certified for program participation through the use of an authorized representative who shall be an employee of and designated by the private nonprofit organization or institution administering the treatment and rehabilitation program. The center, which acts on behalf of eligible persons who reside at the center, shall receive and spend the coupons for food prepared by and/or served to the addict or alcoholic.

(b) Residents of group living arrangements shall either apply and be certified through use of an authorized representative employed and designated by the group living arrangement or apply and be certified on their own behalf or through an authorized representative of their own choice.

(3) The following restrictions apply to authorized representatives:

(a) A retailer who is authorized to accept food coupons or an employee of the department, may not act for a household in applying or in purchase of food, without the specific written approval of the CSO administrator following a determination that no one else is available to serve.

(b) A multihousehold authorized representative may act on behalf of more than one household when the CSO determines there is a bona fide need.

(c) Individuals disqualified for fraud may not serve as authorized representatives during their disqualification period unless no other adult is available.

(4) In the event employers are designated as authorized representatives or a single authorized representative has access to a large number of ATPs or coupons, the department should exercise caution to assure that:

(a) The name of the authorized representative shall be contained in the household's case file and the household has freely requested the assistance of the authorized representative;

(b) The household circumstances are correctly represented and the household is receiving the correct amount of benefits;

(c) The authorized representative is properly using the coupons.

(5) When the department obtains evidence that an authorized representative has misrepresented a household's circumstances and has knowingly provided false information pertaining to the household or has made improper use of coupons, the department shall disqualify the authorized representative from participating as an authorized representative for up to one year. The department shall send written notification to the affected household or households and the authorized representative thirty days prior to the date of disqualification. The notification shall include:

(a) The proposed action;

(b) The reason for the action; and

(c) The household's right to request a fair hearing.

This provision is not applicable in the case of drug and alcoholic treatment centers and those group homes which act as authorized representatives for their residents. Refer to WAC 388-54-660 (3)(c)(iii) for drug and alcohol treatment centers who commit fraud or misrepresent center residents in the food stamp application process.

[Statutory Authority: RCW 74.04.510, 82-24-005 (Order 1905), § 388-54-635, filed 11/18/82; 79-03-033 (Order 1374), § 388-54-635, filed 3/1/79.]

**WAC 388-54-640 Application and participation-- Opportunity to participate.** (1) An eligible household shall be provided an opportunity to participate as soon as possible but not later than thirty days after the application was filed. An application is considered filed the day the department receives an application containing the applicant's name and address, which is signed by either a responsible member of the household or the household's authorized representative.

(2) An opportunity to participate consists of providing households with a food coupon authorization (FCA) card or other authorization and having an issuance facility open and available for the household to obtain its allotment.

(3) Households that are found to be ineligible shall be sent a notice of denial as soon as possible but not later

than thirty days following the date the application was filed.

(4) If the department does not determine a household's eligibility and provide an opportunity to participate within thirty days of the application, the department shall take the following action:

(a) Determine whether the delay was the fault of the household. A delay shall be considered the fault of the household if:

(i) The household has failed to complete the application form even though the department offered or attempted to offer assistance in its completion, and this assistance is documented;

(ii) One or more members of the household has failed to register for work and the department informed the household of the need to register and gave the household at least ten days from the date of notification to register these members, and the notice was documented;

(iii) In cases where verification is incomplete, the department provided assistance when required and allowed the household sufficient time to provide the missing verification which is at least ten days from the date of the department's initial request for the particular verification that was missing, and this ten-day period was documented;

(iv) For households that failed to appear for an interview, the department attempted to reschedule the initial interview within thirty days of the date the application was filed.

(A) If a household failed to appear for the first interview and a subsequent interview is postponed at the household's request or cannot otherwise be rescheduled until after the twentieth day but before the thirtieth day following the date the application was filed, the household must appear for the interview, bring verification, and register members for work by the thirtieth day.

(B) If the household failed to appear for the first interview and a subsequent interview is postponed at the household's request until after the thirtieth day following the date the application was filed, the delay shall be the fault of the household.

(C) If the household has missed both scheduled interviews and requests another interview, any delay shall be the fault of the household.

(b) If the delay is the fault of the household, the household shall lose its entitlement to benefits for the month of application, and a denial notice shall be sent. However, the household shall be given an additional thirty days to take the required action.

After a notice of denial is sent and the household takes the required action within sixty days of the date the application was filed, the department shall reopen the case without requiring a new application.

(c) Determine if the delay is the fault of the department.

Delays that are the fault of the department include, but are not limited to, those cases where the department failed to take the action described in subsection (4)(a) of this section.

(d) If the delay is the fault of the department, the department shall take immediate corrective action. The

department shall not deny the application but send a notice of pending action, complete with an explanation to the household of any action it must take to complete the application process.

If the household is given an additional thirty-day period to provide verifications that were missing and the household is determined eligible in this second thirty-day period, the household shall be entitled to benefits retroactive to the day of application.

(5) In cases of delays beyond sixty days:

(a) If the department is at fault for not completing the application process by the end of the second thirty-day period and the case file is otherwise complete, the original application will be processed until completed.

(i) If the department was at fault in the first thirty-day period, the household shall receive benefits retroactive to the day of application.

(ii) If the household was at fault in the first thirty days, the household shall receive benefits retroactive only to the month following the day of application.

(b) If the department is at fault for not completing the application process by the end of the second thirty-day period, but information is not complete enough to reach an eligibility determination, the case shall be denied and a notice sent.

(i) If the department was also at fault for the delay in the initial thirty days, the amount of benefits lost would be calculated from the day of application.

(ii) If the household was at fault for the initial delay, the amount of benefits lost would be calculated from the month following the day of application.

(c) If the household is at fault for not completing the application process by the end of the second thirty-day period, the department shall deny the application and require the household to file a new application.

[Statutory Authority: RCW 74.04.510, 83-08-071 (Order 1956), § 388-54-640, filed 4/6/83; 81-23-044 (Order 1720), § 388-54-640, filed 11/18/81; 79-03-033 (Order 1374), § 388-54-640, filed 3/1/79.]

**WAC 388-54-645 Application and participation--Expedited service.** The department shall screen applicants at the time of application to determine which households are eligible for expedited service.

(1) If otherwise eligible, the following households are entitled to expedited service.

(a) Households with liquid resources not to exceed one hundred dollars, and

(b) Households with gross monthly income under one hundred fifty dollars, or

(c) Migrant or seasonal farmworkers who are destitute as defined in WAC 388-54-655.

(2) For households eligible for expedited service.

(a) The department shall mail or have available for the household an FCA or food coupons no later than the close of business on the fifth calendar day following the date the application was filed.

(b) For residents of drug or alcoholic treatment and rehabilitation centers who are eligible, the department shall make the FCA or [and] coupons available within

seven working days following the date the application was filed.

(3) When expediting certification and issuance, the department shall:

(a) Verify the household's identity through a collateral contact or readily available documentary evidence.

(b) Make all reasonable efforts to verify within the expedited service processing standard, the household's residency, income (including a statement the household has no income), liquid resources, and all required verifications.

Benefits shall not be delayed beyond the delivery standard described in subsection (2) of this section solely because the eligibility factors have not been verified.

(c) Require the applicant to register for work unless exempt or unless the household has designated an authorized representative to apply on the household's behalf; postpone work registration of other members of the household if registration cannot be accomplished within the expedited service time frames.

(d) Promptly contact the collateral contact or otherwise assist the household in obtaining the necessary verification.

(4) Households that are certified on an expedited basis and have provided all necessary verification required prior to certification shall be assigned a normal certification period. When Social Security numbers (SSNs) are the only required items not verified, the household member having applied for an SSN shall be allowed to participate through the end of the first month of benefits. Those households unable to provide the required SSNs or not having one prior to their next issuance shall be allowed thirty days from the first day of the first full month of participation to obtain the SSN. If good cause is established, the participant may continue to participate for an additional thirty days provided the individual has documentation indicating he or she has applied for a SSN.

If all necessary verification was postponed, the household will be certified for one month only unless the household has applied after the fifteenth of the month. Then the department shall certify the household for the month of application and the subsequent month. When the household has provided the postponed verification, the department shall issue the subsequent month's allotment within five working days from receipt of the verification.

(a) The allotment shall not be issued past the month of application if verification which was postponed is not completed. If the postponed verification is not completed within thirty days of the date of application, the household shall be terminated and no additional allotment issued.

(b) At the time of reapplication, the household shall complete the verification requirements which were postponed.

(c) There is no limit to the number of times a household can be certified under expedited procedures, so long as prior to each expedited certification, the household either completes the verification requirements postponed at the last expedited certification, or was certified under

normal processing standards since the last expedited certification.

(5) A household entitled both to expedited service and waiver of office interview shall be interviewed and the application process completed within the expedited service standards. The first day of the expedited service standard is the calendar day following application filing. If the application is not complete and a telephone interview is conducted, the department shall complete the application for the household during the interview and mail the completed application the same day to the household for signature. Mailing time will not be calculated in the expedited service standard. Mailing time shall include days the application is in the mail to and from the household and the days the application is in the household's possession.

[Statutory Authority: RCW 74.04.510, 83-08-071 (Order 1956), § 388-54-645, filed 4/6/83; 82-06-002 (Order 1765), § 388-54-645, filed 2/18/82; 81-23-044 (Order 1720), § 388-54-645, filed 11/18/81; 81-11-045 (Order 1653), § 388-54-645, filed 5/20/81; 80-10-043 (Order 1529), § 388-54-645, filed 8/6/80; 79-03-033 (Order 1374), § 388-54-645, filed 3/1/79.]

**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 388-54-650 Application and participation-- Participation of public assistance households.** (1) The department shall conduct a single interview at initial application for both public assistance (PA) and food stamp purposes.

(2) Based upon a thirty-day month the department shall issue a coupon allotment valued in direct proportion to the number of days remaining from the date of application to the end of the initial month of eligibility; however, initial benefits less than ten dollars will not be issued.

(3) The department shall not delay the household's food stamp benefits pending verification of the PA eligibility provided food stamp eligibility has been established.

[Statutory Authority: RCW 74.04.510, 83-08-071 (Order 1956), § 388-54-650, filed 4/6/83; 81-23-044 (Order 1720), § 388-54-650, filed 11/18/81; 79-03-033 (Order 1374), § 388-54-650, filed 3/1/79.]

**WAC 388-54-655 Application and participation-- Destitute households.** (1) Migrant or seasonal farmworker households are considered destitute and eligible for expedited service as defined in WAC 388-54-601 (5) and (13) under the following circumstances:

(a) Households whose only income for the month of application was received prior to the date of application and was from a terminated source.

(b) Households whose only income for the month of application is from a new source, if income of more than twenty-five dollars from the new source will not be received by the tenth calendar day after the date of application.

(2) Destitute households shall have their eligibility and level of benefits calculated for the month of application by considering only income which is received between the first of the month and the date of application. Any income from a new source that is anticipated after the day of application shall be disregarded.

(3) Travel advances:

(a) Which are reimbursements of travel expenses will not affect the determination that a household is destitute.

(b) Which by written contract are an advance on wages and will subsequently be subtracted from wages earned later:

(i) Shall count as income in the month actually received;

(ii) Shall not affect the determination of whether subsequent payments from the employer are from a new source of income;

(iii) Shall not affect the determination of whether a household shall be considered destitute.

(4) Households whose income must be averaged on an annual basis, or averaged over the period the income is intended to cover, shall have the income averaged and assigned to the appropriate months of the certification period before a determination of destitution is made.

(5) A household member who changes jobs but continues to work for the same employer shall be considered as still receiving income from the same source.

(a) A migrant farmworker's source of income shall be considered to be the grower for whom the migrant is working at a particular point in time, and not the crew chief.

(b) A migrant who travels with the same crew chief but moves from one grower to another shall be considered to have moved from a terminated income to a new source.

(6) Households other than migrant or reasonable farmworkers shall not be classified as destitute.

[Statutory Authority: RCW 74.04.510, 86-08-032 (Order 2356), § 388-54-655, filed 3/26/86; 83-08-071 (Order 1956), § 388-54-655, filed 4/6/83; 81-23-044 (Order 1720), § 388-54-655, filed 11/18/81; 80-01-056 (Order 1466), § 388-54-655, filed 12/19/79; 79-03-033 (Order 1374), § 388-54-655, filed 3/1/79.]

**WAC 388-54-660 Application and participation-- Special circumstances for participation.** (1) Delivered meals. In order to purchase meals from a nonprofit meal delivery service authorized by FNS, eligible household members:

(a) Must be sixty years of age or over, or

(b) Must be housebound, physically handicapped or otherwise disabled to the extent household members are unable to adequately prepare all meals, or

(c) Be the spouse of such a person.

(2) Communal dining. Members of eligible households sixty years of age or older and spouses, or members receiving SSI and spouses may use all or any part of coupons to purchase meals prepared especially for the household member at a communal dining facility authorized by FNS for that purpose.

(3) Residents of drug or alcohol treatment and rehabilitation programs. Narcotics addicts or alcoholics regularly participating in a drug or alcoholic treatment and rehabilitation program on a resident basis, may use food coupons to purchase food prepared for or served to the resident during the program, provided:

(a) The program is administered by a private nonprofit organization or institution authorized by FNS as a retailer or certified by the state as providing treatment leading to the rehabilitation of drug addicts or alcoholics pursuant to 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 reapplies 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, X, XIV, or XVI of the Social Security Act; or

(iii) A veteran with a service-connected disability rated or paid by the Veterans' Administration as total; or

(iv) A veteran considered by Veterans' Administration in need of regular aid and attendance or permanently housebound; or

(v) A surviving spouse of a veteran and considered by Veterans' Administration in need of aid and attendance or permanently housebound; or

(vi) A surviving child of a veteran and considered to be permanently incapable of self-support; or

(vii) A surviving spouse or child of a veteran with a permanent disability under the Social Security Act:

(A) Entitled to compensation for a service-connected death; or

(B) Entitled to compensation for pension benefits for a nonservice-connected death; and

(viii) An individual receiving disability retirement benefits from a government agency because of permanent disability under the Social Security Act.

(ix) An individual receiving an annuity payment under the Railroad Retirement Act of 1974 and determined to be:

(A) Eligible to receive Medicare by the railroad retirement board; or

(B) Disabled under Title XVI 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, 87-01-009 (Order 2448), § 388-54-665, filed 12/8/86; 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 388-54-670 Student eligibility.** (1) A student is any person who is:

(a) Between the ages of eighteen and sixty years; and

(b) Physically and mentally fit; and

(c) Enrolled at least half-time in an institution of higher education. A student shall be ineligible to receive food stamps unless that person meets one of the requirements of subsection (3) of this section.



(2) Institution of higher education is any institution which normally requires a high school diploma or equivalency certificate for enrollment. This includes colleges, universities, and vocational or technical schools at the post-high school level.

(3) A student shall meet one of the following to receive food stamps:

(a) Work and be paid for a minimum of twenty hours per week. A self-employed student must work at least twenty hours per week and the weekly earnings shall at least be equal to the federal minimum hourly wage multiplied by twenty hours;

(b) Receive money from a federal work study program during the regular school year;

(c) Be responsible for the care of a dependent household member under age six;

(d) Be responsible for the care of a dependent household member who is at least age six but under age twelve and the CSO has determined adequate child care is not available;

(e) Receive benefits from the aid to families with dependent children program;

(f) Attend an institution of higher learning through a program under the Job Training Partnership Act.

(4) Student status begins the first day of the school term and continues through normal periods of class attendance, vacation, and recess. Student status is lost when a student:

(a) Graduates,

(b) Is suspended,

(c) Is expelled,

(d) Drops out, or

(e) Does not intend to register for the next normal school term excluding summer school.

[Statutory Authority: RCW 74.04.510, 86-18-060 (Order 2421), § 388-54-670, filed 9/2/86; 83-08-071 (Order 1956), § 388-54-670, filed 4/6/83; 83-03-015 (Order 1934), § 388-54-670, filed 1/12/83; 80-15-080 (Order 1558), § 388-54-670, filed 10/20/80; 79-07-057 (Order 1408), § 388-54-670, filed 6/25/79; 79-03-033 (Order 1374), § 388-54-670, filed 3/1/79.]

**WAC 388-54-675 Work registration 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.

**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 reasons for 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 388-54-676(3) 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

[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.]

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 quit. 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 the household member causing the sanction leaves the household, the sanction follows that member. The remaining household members are no longer sanctioned. The sanction does not apply to a household that a sanctionable member may join.

(7) 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.

(8) 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. 86-08-084 (Order 2360), § 388-54-677, filed 4/2/86; 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 388-54-679 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 388-54-680 Citizenship and alien status.** (1) To participate in the food stamp program an applicant shall be any person who is a resident of the United States and either:

- (a) A United States citizen; or
- (b) An alien lawfully admitted for permanent residence as an immigrant pursuant to Sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act.
- (c) An alien who entered the United States prior to June 30, 1948, or some later date as required by law, and has continuously maintained residency in the United States since then, and is not ineligible for citizenship but is considered to be lawfully admitted for permanent residence as a result of an exercise of discretion by the attorney general pursuant to Section 249 of the Immigration and Nationality Act.

(d) An alien who qualified for entry after March 17, 1980, because of persecution or fear of persecution on account of race, religion or political opinion pursuant to Sections 203(a)(7), 207, and 208 of the Immigration and Nationality Act.

(e) An alien who qualifies for conditional entry prior to March 18, 1980, pursuant to former Section 203(a)(7) of the Immigration and Nationality Act.

(f) An alien granted asylum through an exercise of discretion by the attorney general pursuant to Section 208 of the Immigration and Nationality Act.

(g) An alien lawfully present in the United States as a result of an exercise of discretion by the attorney general for emergent reasons or reasons deemed strictly in the public interest pursuant to Section 212(d)(5) of the Immigration and Nationality Act or as a result of a grant of parole by the attorney general.

(h) An alien living within the United States for whom the attorney general has withheld deportation pursuant to Section 243 of the Immigration and Nationality Act because of the judgment of the attorney general that the alien would otherwise be subject to persecution on account of race, religion or political opinion.

(2) The CSO shall determine if household members identified as alien are eligible aliens by requiring the appropriate verification for each alien member. Aliens unable to furnish this identification are ineligible.

(3) Ineligible aliens. Aliens other than those described in this section shall not be eligible to participate in the program as a member of any household. Among those excluded are alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country. The following applies:

(a) The income and resources of an ineligible alien who would be considered a member of a household if he or she did not have ineligible alien status shall be considered in determining eligibility or level of benefits of the household in the same manner as the income and resources of a disqualified member as found in WAC 388-54-830.

(b) If verification of the eligible alien status is not provided on a timely basis, the eligibility of the remaining household members shall be determined. The income

and resources of the individual whose alien status is unverified shall be treated in the same manner as a disqualified member as set forth in WAC 388-54-830 and considered available in determining the eligibility of the remaining household members. If verification of eligible alien status is subsequently received, the department shall act on the information as a reported change in household membership.

(c) When a household indicates inability or unwillingness to provide documentation of alien status for any household member, that member should be classified as an ineligible alien.

(4) Reporting illegal aliens. The department shall inform the local INS office whenever a member of a household is ineligible to receive food stamps because the member is present in the United States in violation of a known deportation order of the Immigration and Nationality Act.

(5) Sponsored aliens. See WAC 388-54-660(5) for instructions in determining eligibility and benefit level of a sponsored alien and their spouse.

[Statutory Authority: RCW 74.04.510. 83-10-078 (Order 1959), § 388-54-680, filed 5/4/83; 82-24-005 (Order 1905), § 388-54-680, filed 11/18/82; 79-03-033 (Order 1374), § 388-54-680, filed 3/1/79.]

**WAC 388-54-685 Residency.** (1) A household must be living in the project area where filing an application for participation.

(2) No individual may participate as a member of more than one household, or in more than one project area, in any month unless an individual is a resident of a shelter for battered women and children and was a member of a household containing the person abusing him or her.

(3) The department shall not impose any durational residency requirements.

(4) A fixed residence is not required nor shall residency require an intent to reside permanently in the state or project area.

(5) Persons in a project area solely for vacation purposes shall not be considered residents.

[Statutory Authority: RCW 74.04.510. 82-11-092 (Order 1814), § 388-54-685, filed 5/19/82; 79-03-033 (Order 1374), § 388-54-685, filed 3/1/79.]

**WAC 388-54-687 Social Security number (SSN).**

(1) As a condition of eligibility, each household member shall be required to:

(a) Provide a Social Security number (SSN). An individual having more than one SSN must provide all numbers; or

(b) Apply for a Social Security number if it is unknown or has not been issued.

(2) An individual required to provide an SSN shall provide the SSN or verify that an application accompanied by the necessary documents has been filed with SSA prior to certification.

(3) If good cause exists for failure to comply with the SSN requirement, the household member shall be allowed to participate for an additional thirty days.

Documentary evidence or collateral information that the household has applied for or made every effort to supply SSA with the necessary information shall be considered good cause for not complying with this requirement.

Consider information from the household member, SSA, and the CSO in determining good cause.

If a household member has been unable to obtain documents required by SSA, the CSO staff should make every effort to assist the household member in obtaining these documents.

(4) An individual required to provide an SSN who cannot show good cause for failure to provide it shall be disqualified. Other household members who meet all requirements shall continue to be eligible to participate.

(5) A disqualified individual may become eligible upon providing the Social Security number.

(6) The department shall explain to applicants and participants that refusal to provide an SSN will result in disqualification of the individual for whom an SSN is not obtained.

(7) The department shall inform the applicants or recipients where to apply for an SSN and what information will be needed. The department shall suggest that the household member ask for proof of application from SSA in the event the application is not processed within the thirty-day time period.

[Statutory Authority: RCW 74.04.510, 83-08-071 (Order 1956), § 388-54-687, filed 4/6/83; 80-10-043 (Order 1529), § 388-54-687, filed 8/6/80.]

**WAC 388-54-690 Resources—Allowable maximums.** (1) The maximum allowable resources of all members of the household shall not exceed:

(a) Three thousand dollars for any household with a member age sixty or over;

(b) Two thousand dollars for all other households.

(2) The resources of a student as defined in WAC 388-54-670 determined to be ineligible shall not be considered available to other household members, nor shall the individual be counted as a household member in determining the resource eligibility limits.

[Statutory Authority: RCW 74.04.510, 86-17-013 (Order 2408), § 388-54-690, filed 8/8/86; 82-24-005 (Order 1905), § 388-54-690, filed 11/18/82; 81-01-015 (Order 1574), § 388-54-690, filed 12/8/80; 79-03-033 (Order 1374), § 388-54-690, filed 3/1/79.]

**WAC 388-54-695 Resources—Exempt.** The following resources shall be exempt:

(1) The home and surrounding property not separated from the home by intervening property owned by others. The home and surrounding property shall remain exempt when temporarily unoccupied for reasons of employment, training for future employment, illness or uninhabitability due to casualty or natural disaster, if the household intends to return. Households that currently do not own a home, but own or are purchasing a lot on which the household intends to build or is building a permanent home, shall receive an exemption for the value of the lot and, if the home is partially completed, for the home.

(2) Personal effects (clothing, jewelry, etc.), and household goods (furniture, appliances, etc.), including one burial plot per household member.

(3) Cash value of life insurance policies and pension funds, including funds in pension plans, such as a Keogh plan which involve a contractual relationship with individuals not household members.

(4) Vehicles as provided for in WAC 388-54-717.

(5) Property annually producing income consistent with the fair market value, even if only used on a seasonal basis, except rental homes used by households for vacation purposes at some time during the year shall be counted as resources unless the property is producing annual income consistent with the fair market value.

(6) Property, such as farm land, rental homes or work-related equipment, such as the tools of a tradesman or the machinery of a farmer, essential to the employment or self-employment of a household member.

(7) Resources of nonhousehold members such as roomers, live-in attendants or ineligible aliens.

(8) Indian lands held jointly with the tribe or land that can be sold only with the approval of the Bureau of Indian Affairs.

(9) Resources prorated as income for self-employed persons or students.

(10) The cash value of resources not accessible to the household, such as but not limited to, irrevocable trust funds, security deposits on rental property or utilities, property in probate, real property and notes receivable not readily liquidated, if the household is making a good-faith effort to sell at a reasonable price and has not been sold.

Funds in a trust or transferred to a trust, and the income produced by that trust to the extent the trust is not available to the household, shall be considered inaccessible to the household if:

(a) The trustee administering the funds is either:

(i) A court, or institution, corporation or organization and is not under the direction or ownership of any household member;

(ii) The individual appointed by the court who has court-imposed limitations placed on the household's use of the funds;

(iii) The funds held in irrevocable trust are either established from the household's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational expenses of any person named by the household creating the trust or established from nonhousehold funds by a nonhousehold member;

(iv) Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction or influence of a household member.

(b) If the trust arrangement will not likely cease during the certification period; and

(c) If no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period.

(11) Resources excluded for food stamp purposes by express provision of federal law:

(a) Payments received under the Alaska Native Claims Settlement Act or the Sac and Fox Indian Claims Agreement;

(b) Payments received by certain Indian tribal members under Public Law 94-114, Sec. 6, regarding sub-marginal land held in trust by the United States;

(c) Payments received from the disposition of funds to the Grand River Band of Ottawa Indians;

(d) Benefits received from the women, infants and children program (WIC);

(e) Reimbursement from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970;

(f) Earned income tax credits received before January 1, 1980, as a result of Public Law 95-600, the Revenue Act of 1978;

(g) Payments received under Title IV CETA amendments of 1978 as follows: Youth incentive entitlement pilot projects, youth community conservation and improvement projects, and youth employment and training programs.

(h) Payments received by the Confederated Tribe of the Yakima Indian Nation and from the Indian Claims Commission as designated under Public Law 94-433, Sec. 2.

(12) Installment contracts or agreements for the sale of land or other property producing income consistent with the fair market value, and the value of the property sold under the installment contract or held as security in exchange for a purchase price consistent with the fair market value of that property.

(13) Any governmental payments specifically designated for restoration of a home damaged in a disaster if the household is subject to legal sanction if the funds are not used as intended.

(14) A payment or allowance made under any federal, state or local laws clearly identified as energy assistance by the legislative body authorizing the program or providing the funds. Among the federal payments excluded are energy assistance payments provided through the Department of Health and Human Services' Low-Income Energy Assistance Program and the Community Services Administration's Energy Crisis Assistance and Crisis Intervention Programs.

(15) For jointly owned resources, refer to WAC 388-54-715.

(16) Where an exclusion applies because of use of a resource by or for a household member, the exclusion shall also apply when the resource is being used by or for an ineligible alien or disqualified person whose resources are being counted as part of the household's resources. For example, work-related equipment essential to the employment of an ineligible alien or disqualified person shall be excluded, as shall one burial plot per ineligible alien or disqualified household member.

388-54-695, filed 12/19/79; 79-03-033 (Order 1374), § 388-54-695, filed 3/1/79.]

**WAC 388-54-715 Resources--Nonexempt.** (1) The following shall be considered as resources:

(a) Liquid resources such as cash on hand or in checking or savings accounts, savings certificates, stocks and bonds, funds held in individual retirement accounts (IRAs), and funds held in Keogh plans which are accessible to and involve only food stamp household members.

(b) Nonliquid resources such as real property (buildings, land, etc.) and personal property (boats, aircraft, unlicensed vehicles, etc.) which are not exempted by WAC 388-54-695.

(c) Money received in the form of a nonrecurring lump-sum payment, including, but not limited to income tax refunds, rebates or credits; retroactive lump-sum Social Security, SSI, public assistance, railroad retirement benefits or other payment; or lump-sum insurance settlements; or refunds of rental, security or utility deposits.

(2) The value of nonexempt resources, except for licensed vehicles as specified in WAC 388-54-717, shall be its equity value. The equity value is the fair market value less encumbrances.

(3) Exempt moneys which are kept in a separate account, and that are not commingled in an account with nonexempt funds, shall retain their resource exemption for an unlimited period of time.

(a) Those exempt moneys which are commingled in an account with nonexempt funds shall retain their exemption for six months from the date they are commingled.

(b) After six months from the date of commingling, all funds in the commingled account shall be counted as a resource.

(c) Those exempt moneys of students and self-employed households which are excluded as per WAC 388-54-695(9) and commingled in an account with nonexcluded funds shall retain their exclusion for the period of time over which they have been prorated as income.

(4) Vehicles as provided for in WAC 388-54-717.

(5) Resources owned jointly by separate households shall be considered available in their entirety to each household, unless one household can demonstrate that the resource is inaccessible to that household.

(a) If the household can demonstrate that it has access to only a portion of the resource, the value of that portion of the resource shall be counted toward the household's resource level.

(b) Resource shall be considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply.

(c) For the purpose of considering jointly owned resources, ineligible aliens or disqualified individuals residing with the household shall be considered household members.

[Statutory Authority: RCW 74.04.510. 83-08-071 (Order 1956), § 388-54-695, filed 4/6/83; 82-24-005 (Order 1905), § 388-54-695, filed 11/18/82; 82-11-092 (Order 1814), § 388-54-695, filed 5/19/82; 82-06-004 (Order 1767), § 388-54-695, filed 2/18/82; 81-01-015 (Order 1574), § 388-54-695, filed 12/8/80; 80-05-044 (Order 1498), § 388-54-695, filed 4/16/80; 80-01-056 (Order 1466), §

(6) Resources shall be considered inaccessible to persons residing in shelters for battered women and children if:

(a) The resources are jointly owned by such persons and by members of their former household; and

(b) The shelter resident's access to the value of the resources is dependent on the agreement of a joint owner who still resides in the former household.

[Statutory Authority: RCW 74.04.510, 83-08-071 (Order 1956), § 388-54-715, filed 4/6/83; 82-24-005 (Order 1905), § 388-54-715, filed 11/18/82; 80-01-056 (Order 1466), § 388-54-715, filed 12/19/79; 79-03-033 (Order 1374), § 388-54-715, filed 3/1/79.]

**WAC 388-54-717 Resources—Vehicles.** In determining its resource value, each vehicle will be handled as follows:

(1) Each vehicle will be evaluated to determine if it is exempt.

(a) The entire value of a licensed vehicle shall be excluded if the vehicle is:

(i) Used, over fifty percent of the time the vehicle is in use, for income producing purposes such as, but not limited to, a taxi, truck or fishing boat;

(ii) Annually producing income consistent with its fair market value even if used only on a seasonal basis;

(iii) Necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member (or ineligible alien or disqualified person whose resources are being considered available to the household), such as, but not limited to, a traveling salesperson or a migrant farmworker following the work stream;

(iv) Necessary for subsistence hunting or fishing; or

(v) Used as the household's home;

(vi) Necessary to transport a physically disabled household member (or ineligible alien or disqualified person whose resources are being considered available to the household), regardless of the purpose of such transportation (limited to one vehicle per physically disabled person). A vehicle shall be considered necessary for the transportation of a physically disabled household member if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle that makes it possible to transport the disabled person. The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member.

(b) The entire value shall be excluded if the unlicensed vehicle which is driven by Indian tribal members on those reservations not requiring vehicle licensing meets the provisions of subsection (1)(a) of this section.

(c) The exclusion will apply when the vehicle is not in use because of temporary unemployment.

(2) Each vehicle will be evaluated to determine its fair market value.

(a) The fair market value of licensed automobiles, trucks, and vans shall be determined by the value of the vehicles as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies.

(b) All licensed vehicles not excluded in subsection (1) of this section shall individually be evaluated for fair market value. That portion of the value of each vehicle which exceeds four thousand five hundred dollars shall be attributed in full toward the household's resource level regardless:

(i) Of any encumbrances on the vehicle;

(ii) Of whether or not the vehicle is used to transport household members to and from employment.

(3) Each vehicle will be evaluated to see if it is equity exempt.

(a) Licensed vehicles shall be evaluated for their equity value except:

(i) Vehicles excluded in subsection (1) of this section; and

(ii) One licensed vehicle per household regardless of the use of the vehicle; and

(iii) Any other licensed vehicles used to transport household members (including ineligible alien or disqualified household member) to and from employment, for seeking employment or for training or education which is preparatory to employment, even during periods of unemployment.

(b) The equity value of licensed vehicles not covered by this exclusion and of unlicensed vehicles not excluded by subsection (1)(b) of this section shall be attributed toward the household's resource level.

(4) If the vehicle has a countable market value of more than four thousand five hundred dollars and also has a countable equity value, only the greater of the two amounts shall be counted as a resource.

[Statutory Authority: RCW 74.04.510, 82-24-005 (Order 1905), § 388-54-717, filed 11/18/82; 81-01-015 (Order 1574), § 388-54-717, filed 12/8/80; 79-03-033 (Order 1374), § 388-54-717, filed 3/1/79.]

**WAC 388-54-720 Resources—Transfer of property.**

(1) A household member (or ineligible alien or disqualified person) who has knowingly transferred any resource for the purpose of qualifying or attempting to qualify for food stamp benefits within the three months immediately preceding the application for food stamp benefits, or after the household is determined eligible, shall result in disqualification of the entire household for up to one year from the date of discovery of the transfer. The penalty shall not apply to the following types of transfers:

(a) Resources which would not effect eligibility;

(b) Resources which are sold or traded at or near fair market value;

(c) Resources which are transferred between household members and ineligible aliens or disqualified persons of the same household;

(d) Resources transferred for reasons other than qualifying.

(2) The length of disqualification shall be based on the amount by which nonexempt and transferred resources, when added to other countable resources, exceed the allowable resource limits:



AMOUNT IN EXCESS OF RESOURCE LIMITS	PERIOD OF DISQUALIFICATION
\$0 - 249.99	1 month
250 - 999.99	3 months
1,000 - 2,999.99	6 months
3,000 - 4,999.99	9 months
5,000 and over	12 months

[Statutory Authority: RCW 74.04.510. 86-17-013 (Order 2408), § 388-54-720, filed 8/8/86; 82-24-005 (Order 1905), § 388-54-720, filed 11/18/82; 79-03-033 (Order 1374), § 388-54-720, filed 3/1/79.]

**WAC 388-54-725 Income--Definitions.** (1) Earned income shall include:

- (a) All wages and salaries of an employee.
  - (b) Total gross income from a self-employment enterprise including the total gain from the sale of any capital goods or equipment related to the business, excluding the cost of doing business.
    - (i) Payments from a roomer or boarder.
    - (ii) Returns on rental property, only if the household member is engaged in management of said property at least an average of twenty hours a week.
  - (c) Training allowances from vocational and rehabilitative programs recognized by federal, state, or local governments, such as WIN, 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).
  - (f) Earnings of individuals participating in on-the-job training programs under the Job Training Partnership Act (JTPA).
  - (g) College work study funds.
- (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.

(k) Cash prizes, awards, lottery winnings, and gifts.

(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. 86-17-013 (Order 2408), § 388-54-725, filed 8/8/86; 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, 1986,

**Gross Monthly Income Eligibility Standards Table**

Household Size	Monthly Standards
1	\$ 581
2	785
3	988
4	1,192

Household Size	Monthly Standards
5	1,396
6	1,599
7	1,803
8	2,007
Each additional person	+ 204

**Effective July 1, 1986,  
Net Monthly Income Eligibility Standards Table**

Household Size	Maximum Allowable Net Income
1	\$ 447
2	604
3	760
4	917
5	1,074
6	1,230
7	1,387
8	1,544
Each additional member	+ 157

(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, 1986,  
Elderly and Disabled Separate Household Income Eligibility Standards Table**

Household Size	Maximum Gross Monthly Income Elderly and Disabled Separate Household
1	\$ 737
2	996
3	1,254
4	1,513
5	1,771
6	2,030
7	2,288
8	2,547
Each additional member	+ 259

[Statutory Authority: RCW 74.04.510, 86-20-019 (Order 2428), § 388-54-730, filed 9/22/86; 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 388-54-735 Income--Exclusions.** The following income is excluded:

(1) Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970:

(a) Payments to persons displaced as a result of the acquisition of real property;

(b) Relocation payments to a displaced homeowner toward the purchase of a replacement dwelling provided the homeowner purchases and occupies a dwelling within one year following displacement;

(c) Replacement housing payments to displaced persons not eligible for a homeowner's payment.

(2) Payments made under the Domestic Volunteer Services Act of 1973. Payments under Title I (VISTA) to volunteers shall be excluded for individuals receiving public assistance or food stamps at the time the individual joined VISTA and for households receiving a VISTA exclusion at the time of conversion to the Food Stamp Act of 1977. Temporary interruptions in food stamp participation shall not alter the exclusion once an initial determination has been made.

(3) Income derived from certain submarginal land of the United States held in trust for certain Indian tribes under Public Law 94-114, Section 6, or Public Law 94-540.

(4) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians.

(5) Payments by the Indian Claims Commission to the Confederated Tribe of the Yakima Indian Nation (Public Law 95-443).

(6) Any payments received by Alaskan natives under the terms of the Alaskan Native Claims Settlement Act.

(7) Payments from the special crisis intervention program.

(8) Earnings received by any youth under Title IV CETA amendments of 1978 as follows:

(a) Youth incentive entitlement pilot projects;

(b) Youth community conservation and improvement projects;

(c) Youth employment and training programs.

(9) Income received as compensation for services as an employee or income from self-employment by a child residing in the household, under eighteen years of age and attending at least half time (as defined by the institution), a kindergarten or preschool, a grade school, high school, vocational school, technical school, training program, college, or university. The exclusion shall apply to a student under the parental control of another household member.

If the child's earnings or amount of work performed cannot be differentiated from earnings or work performed by other household members, the total earnings shall be prorated equally among the working members and the child's pro rata share excluded.

(10) Income received too infrequently or irregularly to be reasonably anticipated as available during a three-month period provided such infrequent or irregular income of all household members shall not exceed thirty dollars in a three-month period.

(11) All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which repayment is deferred.

(12) Education loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, OASDI educational benefits, and the like to the

extent the funds are used for tuition and mandatory school fees at an institution of higher education, including correspondence schools at that level, or a school at any level for the physically or mentally handicapped.

(13) Money received in the form of nonrecurring lump-sum payments, such as, but not limited to, insurance settlements, sale of property (except property related to self-employment as previously provided for), inheritances, retroactive lump-sum Social Security and railroad retirement pension payments, income tax refunds, and similar, nonrecurring, lump-sum payments.

(14) The cost of producing self-employment income.

(15) Reimbursements for past or future expenses not to exceed the actual expense or reimbursements not representing a gain or benefit to the household:

(a) The following are considered reimbursements excludable and do not represent a gain or benefit:

(i) Flat allowances for job or training-related expenses such as per diem, travel, uniforms, and transportation to and from the job or training site;

(ii) Reimbursements for out-of-pocket expenses of volunteers incurred in the course of the volunteers' work;

(iii) Reimbursement for medical or dependent care;

(iv) Reimbursements or allowances to students for specific education expenses. Portions of a general grant or scholarship must be specifically earmarked by the grantor for educational expenses such as travel or books. For purposes of this provision, "grantor" shall include any agents of the grantor responsible for the administration of the grant, and "grant or scholarship" shall include any grant used for educational purposes regardless of the fact the grantee must perform services to obtain the grant. Schools or institutions do not have the authority to designate a portion of "Pell Grant" (formerly BEOG). The United States Department of Education (DOE) is the only authority to earmark "Pell Grant" funds.

(b) The following are considered reimbursements not excludable and do represent a gain or benefit.

Reimbursements for normal living expenses, such as rent or mortgage, personal clothing, or food eaten at home.

(16) Any gain or benefit not in money, such as in-kind benefits, including public housing, meals, or clothing.

(17) Money payments not owed or payable directly to a household, but paid to a third party for a household expense, are vendor payments and are excludable as follows:

(a) A payment made in money on behalf of a household whenever a person or other organization outside of the household uses the person's or organization's own funds to make a direct payment to either the household's creditors or a person or organization providing a service to the household;

(b) Rent or mortgage payments, made to landlords or mortgagees by the Department of Housing and Urban Development (HUD) or by state or local housing authorities, are vendor payments and are excluded;

(c) Money legally obligated and otherwise payable to the household, but is diverted by the provider of the

payment to a third party for a household expense, shall be counted as income and not excluded as a vendor payment.

(18) Money received and used for the care and maintenance of a third-party beneficiary not a household member. Representative payee payments shall be included, however, as income to the beneficiary's household:

(a) If the intended beneficiaries of a single payment are both household and nonhousehold members, any identifiable portion of the payment intended and used for the care and maintenance of the nonhousehold member shall be excluded;

(b) If the nonhousehold member's portion cannot be readily identified, the payment shall be evenly prorated among intended beneficiaries and the exclusion applied to the nonhousehold members pro rata share or the amount actually used for the nonhousehold member's care and maintenance, whichever is less.

(19) Money received as a Department of Housing and Urban Development (HUD) refund payment pursuant to the "Underwood versus Harris" class action settlement agreement under Section 236 of the National Housing Act shall be excluded as income and shall be excluded as a resource for a two-month period. After two months, any remaining portions of the refund payment shall be considered as a resource.

(20) Clearly identified supplemental payments or allowances made under federal, state, or local laws for the purpose of offsetting increased energy costs.

[Statutory Authority: RCW 74.04.510. 86-17-013 (Order 2408), § 388-54-735, filed 8/8/86; 82-24-005 (Order 1905), § 388-54-735, filed 11/18/82; 82-11-092 (Order 1814), § 388-54-735, filed 5/19/82; 82-06-004 (Order 1767), § 388-54-735, filed 2/18/82; 81-08-021 (Order 1628), § 388-54-735, filed 3/25/81; 80-04-006 (Order 1492), § 388-54-735, filed 3/7/80; 80-01-056 (Order 1466), § 388-54-735, filed 12/19/79; 79-08-126 (Order 1421), § 388-54-735, filed 8/1/79; 79-03-033 (Order 1374), § 388-54-735, filed 3/1/79.]

**WAC 388-54-737 Income--Energy allowance.** 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-nine dollars per household per month.

(2) An earned income deduction of twenty 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) A dependent care deduction for households not containing an elderly or disabled member shall be the amount actually paid not to exceed one hundred sixty dollars. Payments for the care of a child or other dependent will be allowed when necessary for a household member to accept or continue employment, seek employment, or attend training or education preparatory to employment.

(4) Shelter costs in excess of fifty percent of the household's income after deducting the standard, earned income, and dependent care deductions. The shelter deduction shall not exceed one hundred forty-nine 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>
1	\$ 131
2	140
3	150
4	158
5	169
6	178
7	184

<u>Persons in Household</u>	<u>Annualized Utility Standards</u>
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 an elderly or disabled member, as defined in WAC 388-54-665 (2)(b), shall be authorized:

(a) A dependent care deduction up to one hundred forty-nine 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. 86-23-019 (Order 2440), § 388-54-740, filed 11/10/86; 86-17-013 (Order 2408), § 388-54-740, filed 8/8/86; 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 non-participating 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 eight-percent earned income deduction specified.

(iv) Depreciation.

(4) Offset losses from farm self-employment against other countable income the household receives. Consider a farmer self-employed if the farmer receives or anticipates receiving annual gross proceeds of at least one thousand dollars from farming. Apply the loss according to the budgeting method in effect for the household.

[Statutory Authority: RCW 74.04.510. 86-11-026 (Order 2379), § 388-54-750, filed 5/14/86; 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 388-54-755 Income--Boarders.** Households receiving income from boarders, except those households operating a commercial boarding house, shall have the income treated as follows:

(1) Income from boarders shall include:

(a) All direct payments to the household for room and meals.

(b) Direct contributions to the household for the household's shelter expenses.

(2) The cost of doing business is deducted. It shall not exceed the payment the household receives from the boarder. The cost of doing business shall include:

(a) The cost of the thrifty food plan for a household size that is equal to the number of boarders.

(b) The actual documented cost of providing room and meals if the actual cost exceeds the appropriate thrifty food plan.

[Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-755, filed 3/1/79.]

**WAC 388-54-760 Certification periods.** (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) The following households shall return a completed monthly status report by the fifth day of the month following the month for which the report describes the household circumstances:

(a) Households with earned income or a recent work history; and

(b) AFDC households subject to mandatory monthly reporting per WAC 388-24-044.

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

(3) Households with a recent work history shall:

(a) At initial application, report for two months beginning the month following the month of opening; or

(b) During the certification period, report for two months after the last month of earnings.

(4) The department shall terminate households failing to return a completed report by the fifth day of the month, except as provided in subsection (5) of this section.

(5) 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 recipient is still eligible.

(6) The department shall not require households reporting monthly to report any changes included on the monthly report prior to the submission of the next monthly report.

[Statutory Authority: RCW 74.04.510, 86-18-058 (Order 2419), § 388-54-768, filed 9/2/86; 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; 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	\$ 81
2	149
3	214
4	271
5	322
6	387
7	428
8	489
9	550
10	611
Each additional member	+61

(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. 86-23-019 (Order 2440), § 388-54-785, filed 11/10/86; 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 388-54-790 Issuance--Use and redemption.**

(1) The department shall issue food coupons through:

(a) An authorization to participate (ATP) system in which an authorizing document is distributed on a monthly basis to the household and surrendered prior to the expiration date to the coupon issuer, or;

(b) A direct coupon mailout system.

(2) For ATP issued after the twenty-fifth of the month, the department shall either:

(a) Issue an ATP which shall not expire for a period of not less than twenty calendar days or until the end of the following month; or



(b) Issue an ATP valid only until the end of the month and issue a valid replacement ATP if the household is unable to transact the ATP before the expiration date. The household shall be informed of this possibility at the time the first ATP is issued.

(3) In the use or redemption of coupons by eligible households:

(a) A household member should sign each coupon book issued to the household. The coupons may be used only by the household or other persons the household selects to purchase eligible food for the household.

(b) Uncanceled and unendorsed coupons of one dollar denomination, returned as change by authorized retail food stores, may be presented as payment for eligible food. All other detached coupons may be accepted only if accompanied by the coupon book bearing the same serial number as the detached coupons. It is the right of the household or the authorized representative to detach the coupons from the book.

(c) When change in an amount less than one dollar is required in a coupon transaction, the household shall receive the change in cash not to exceed ninety-nine cents.

(d) Upon request, the household or the authorized representative shall present the household's ID card to the retail food store or meal service when exchanging food coupons for eligible food.

(e) Coupons shall not be used to pay for any eligible food purchased prior to the time at which the coupons are presented to authorized retail food stores or meal service. Neither shall coupons be used to pay for any eligible food in advance of the receipt of food, except when prior payment is for food purchased from a non-profit cooperative food purchasing venture.

(4) Where the direct mail system is used to issue coupons:

(a) After two reported mail losses by a household within the previous five months, the department shall utilize other means to deliver program benefits to the household.

(b) To minimize mail theft exposure, direct mail issuances shall be staggered through the tenth of the month, and may be staggered through the fifteenth day provided that each household will likely receive coupons on the same date every month.

(5) The department shall maintain issuance records for a period of three years from the month of origin. This period may be extended at the written request of FNS.

(6) In returning coupons, the following shall apply:

(a) In the event of voluntary termination of participation in the program by a household or death of the head of the household, properly issued coupons may be returned to FNS for a refund on the same ratio of cash to coupons as was applied by the department in the issuance of the coupons to the household.

(b) A request for a refund shall be submitted to the department. The request shall be in ink or typed, contain the claimant's address, be dated and signed. The unused coupons shall be attached. The department shall then provide a copy of the refund request to the household as a receipt for the coupons.

(c) The department shall forward claims to FNS for payment. The claimant's request for a refund, request for reimbursement or notification of return of unused food coupons for refund, and the unused coupons shall be forwarded to FNS by the department.

(d) No refunds shall be paid for coupons returned to FNS.

(e) Households which still have old series coupons shall be entitled to a dollar for dollar exchange of old series coupons for new series coupons.

[Statutory Authority: RCW 74.04.510. 82-06-002 (Order 1765), § 388-54-790, filed 2/18/82; 81-23-044 (Order 1720), § 388-54-790, filed 11/18/81; 79-03-033 (Order 1374), § 388-54-790, filed 3/1/79.]

#### WAC 388-54-795 Issuance--Identification cards.

(1) The CSO shall furnish each certified household with an ID card, which will be signed by the person the household designates as head of household and the authorized representative.

(2) Specially marked ID cards shall be issued as follows:

- (a) M for household using delivered meal service,
- (b) CD for communal dining facilities.

[Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-795, filed 3/1/79.]

**WAC 388-54-800 Issuance--Replacement allotments.** (1) 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 388-54-805 Issuance—Restoration of lost benefits.** (1) Whenever a household receives fewer benefits than the household is entitled to receive, the department shall restore those benefits when:

- (a) The loss was caused by department error;
  - (b) An administrative disqualification for intentional program violation was subsequently reversed;
  - (c) Any rule or instruction specifies restoration of lost benefits; or
  - (d) Found by any judicial action that benefits were wrongfully withheld.
- (2) Benefits shall be restored for not more than twelve months from:
- (a) The month the department receives a request for restoration;
  - (b) The month the department is notified or otherwise discovers a loss to a household has occurred;
  - (c) The date the household requested a fair hearing when a request for restoration was not received; or
  - (d) The date the court action was initiated when the judicial action is the first action the recipient has taken to obtain restoration of lost benefits.
- (3) Benefits shall be restored even if the household is currently ineligible.
- (4) The department shall notify the household of its entitlement, the amount of benefits to be restored, the method of restoration and the right to appeal, and any offsetting that was done.
- (5) If the household does not agree with the amount to be restored or with any other action taken by the department, the household may request a fair hearing within ninety days of the date the household is notified of the department's action.
- (6) If a fair hearing is requested prior to or during the time lost benefits are being restored, the household shall continue to receive the lost benefits, as determined by the department, pending the result of the fair hearing.
- (7) Whenever lost benefits are due a household and the household's membership has changed, the department shall restore the lost benefits to the household containing a majority of the individuals who were household members at the time the loss occurred. If the department cannot locate or determine the household which contains this majority, the department shall restore the lost benefits to the household containing the head of the household at the time the loss occurred.

[Statutory Authority: RCW 74.08.510 [74.04.510], 83-21-009 (Order 2030), § 388-54-805, filed 10/6/83. Statutory Authority: RCW 74.04.510, 81-23-044 (Order 1720), § 388-54-805, filed 11/18/81; 80-04-006 (Order 1492), § 388-54-805, filed 3/7/80; 79-03-033 (Order 1374), § 388-54-805, filed 3/1/79.]

**WAC 388-54-815 Conference.** The department shall offer a conference to households:

- (1) Wishing to contest a denial of expedited service. This conference shall be scheduled within two working days unless the household indicates wanting a conference later or not wanting a conference at all.
- (2) Adversely affected by an agency action.
- (3) With the department advising the household that use of a conference shall in no way delay or replace the fair hearing.

[Statutory Authority: RCW 74.04.510, 83-21-011 (Order 2032), § 388-54-815, filed 10/6/83; 80-01-056 (Order 1466), § 388-54-815, filed 12/19/79; 79-03-033 (Order 1374), § 388-54-815, filed 3/1/79.]

**WAC 388-54-817 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 apprises 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 388-54-82650 Intentional program violation disqualification penalties.** (1) Intentional program violation after the effective date of this rule is defined as having intentionally:

(a) Made a false or misleading statement or misrepresented, concealed, or withheld facts;

(b) Committed any act constituting a violation of the Food Stamp Act, the food stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or FCAs.

(2) If the act constituting an intentional program violation occurred in whole or in part after notification or

application specifying the following penalties, then the following disqualification penalties shall apply:

(a) Six months for the first disqualification;

(b) Twelve months for the second disqualification;

(c) Permanently for the third disqualification;

(d) Intentional program violations occurring prior to specifying these penalties shall be considered as only one disqualification.

(3) Intentional program violation which ended prior to the effective date of this rule consists of any action by an individual or individuals to knowingly, willfully, and with deceitful intent:

(a) Make a false statement to the department, either orally or in writing, to obtain benefits to which the household is not entitled;

(b) Conceal information to obtain benefits to which the household is not entitled;

(c) Alter authorization cards or coupons to obtain benefits to which the household is not entitled;

(d) Use coupons to buy expensive or conspicuous non-food items;

(e) Use or possess improperly obtained coupons or authorization cards;

(f) Trade or sell coupons or authorization cards.

(4) If the act constituting an intentional program violation ended prior to notice of or signing an application specifying penalties as provided in subsection (2) of this section, then the disqualification penalties shall be three months if disqualification was determined in an administrative hearing.

(5) The department shall disqualify only the individual or individuals involved in intentional program violation and not the entire household.

(6) Court-ordered disqualifications are for the length of time specified by the court:

(a) The department shall recommend to the courts that a disqualification penalty as provided in subsection (2) of this section be imposed in addition to any other civil or criminal intentional program violation penalties.

(b) The department shall disqualify an individual or individuals found by a court to have committed an act which would constitute an intentional program violation when the court orders disqualification and for the length of time specified by the court. When the court does not specify a date for initiating the disqualification period, the department shall initiate the disqualification period for currently eligible individuals within forty-five days of the date the disqualification was ordered.

(c) The department shall not initiate or continue a court imposed or administratively imposed intentional program violation disqualification period contrary to a court order.

(d) If the court fails to address or specify a disqualification period, the department shall impose a disqualification period as specified in subsection (2) of this section unless the disqualification period is contrary to the court order.

(7) The department shall provide mail notice of disqualification to the household member. The notice shall be provided prior to disqualification whenever possible. The notice shall inform the household member of the

disqualification and the date disqualification will take effect. If the individual is no longer participating, the notice shall inform the individual the period of disqualification will be deferred until such time as the individual again applies for and is found eligible for program benefits. The department shall also provide written notice to the remaining household members, if any, of the allotment household members will receive during the period of disqualification or that household members must re-apply because the certification period has expired.

[Statutory Authority: RCW 74.04.510. 83-21-011 (Order 2032), § 388-54-82650, filed 10/6/83.]

**WAC 388-54-83050 Treatment of income and resources of excluded members.** (1) Intentional program violation or workfare sanction. The eligibility and benefit level of the remaining household member or members of a household containing individual or individuals excluded because of intentional program violation shall be determined as follows:

(a) The entire income and resources of the excluded household member or members shall be considered available to the remaining household members, and the entire household's allowable earned income, standard, medical, dependent care, and excess shelter deductions shall continue to apply to the remaining household members.

(b) No household's coupon allotment is increased as a result of the exclusion of one or more household members.

(2) The eligibility and benefit level of the remaining household member or members of a household containing individual or individuals excluded for any other cause shall be determined as follows:

(a) Resources. The resources of such excluded members shall continue to count in the resources entirety to the remaining household members.

(b) Income. A pro rata share of the income of excluded members shall be counted as income to the remaining members.

(c) Deductible expenses. The eighteen percent earned income deduction shall apply to the prorated income earned by excluded members attributing to their households.

(3) Eligibility and benefit level. Excluded members shall not be included when determining the household's size for purposes of:

(a) Assigning a benefit level to the household;

(b) Comparing the household's monthly income with the income eligibility standards; or

(c) Comparing the household's resources with the resource eligibility limits.

[Statutory Authority: RCW 74.04.510. 83-21-011 (Order 2032), § 388-54-83050, filed 10/6/83.]

**WAC 388-54-850 Overpayments.** (1) Definitions of overpayments for which collection 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 the department can take collection action.

(a) All household members who were adult members of the household at the time an overpayment occurred shall be jointly and severally liable for the value of any overpayment of food stamps.

(b) The department shall establish an overpayment claim against any household that:

(i) Received more food stamp benefits than it was entitled to receive, or

(ii) Contains an adult member who was an adult member of another household that received more food stamp benefits than it was entitled to receive.

(3) Collection actions taken by the department.

(a) The department shall pursue collection action against any or all persons described in subsection (2)(a) of this section.

(b) If a change in household composition occurs, the department may pursue collection action against any household which has a member who was an adult member of the household that received the overpayment.

(c) The department shall not collect more than the amount of the overpayment.

(4) 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.

(5) 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.

(6) Demand letter. Prior to initiating recovery action, the department shall provide the household member a demand letter.

(7) 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.

(8) 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.

(9) After the claim has been held in suspense for three years, the claim shall be terminated.

[Statutory Authority: RCW 74.04.510, 86-18-059 (Order 2420), § 388-54-850, filed 9/2/86; 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.
388-55-030	Treatment of income.
388-55-040	Refugee medical assistance.

##### 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.]

**WAC 388-55-030 Treatment of income.** (1) With the exception of the thirty dollar and one-third exemption, adult refugee recipients shall be eligible for earned income exemptions as specified in WAC 388-28-570, regardless of assistance unit composition.

(2) The income of a refugee dependent child shall be treated as specified in WAC 388-28-535.

(3) All refugee recipients sixty-five years of age or older, or blind or disabled will be referred immediately to the Social Security Administration for SSI benefits. The SSI applicant will be included in the assistance grant at the AFDC standard until payments are received.

[Statutory Authority: RCW 43.20A.550. 83-13-069 (Order 1969), § 388-55-030, filed 6/16/83.]

**WAC 388-55-040 Refugee medical assistance.** (1) The refugee recipient receiving a continuing assistance grant is eligible for medical assistance as specified in WAC 388-82-010(1).

(2) Eligibility for medical care for the nonrecipient refugee shall be determined as specified in chapter 388-83 WAC. Eligibility is based on medical and financial need only; requirements of categorical relatedness are waived. WAC 388-55-030(1) is applicable in determining the amount of participation in medical costs for refugee recipients.

(3) The refugee recipient becoming ineligible because of increased income from employment shall remain eligible for medical assistance for four calendar months beginning with the month of ineligibility provided:

(a) In the case of a single individual assistance unit:

(i) The individual received assistance in at least three of the six months immediately preceding the month of ineligibility; and

(ii) He or she continues to be employed.

(b) In the case of a multiple individual assistance unit:

(i) The family received assistance in at least three of the six months immediately preceding the month of ineligibility; and

(ii) A member of the family continues to be employed.

(iii) Medical need shall not be an eligibility factor.

(4) Refugee recipients shall have continuing eligibility for financial and medical assistance redetermined at least once in every six months of continuous receipt of assistance.

(5) Persons meeting the criteria in this section shall be eligible for refugee assistance only during the eighteen-

month period beginning in the first month the individual entered the United States.

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

[Statutory Authority: RCW 43.20A.550. 83-13-069 (Order 1969), § 388-55-040, filed 6/16/83.]

**Chapter 388-57 WAC  
EMPLOYMENT AND TRAINING--WORK  
INCENTIVE**

WAC	
388-57-010	Utilization of employment security department.
388-57-015	Utilization of employment security department DES--Registration.
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388-57-028	Vocational training.
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388-57-045	Work incentive program--Definitions.
388-57-056	Refusal to cooperate in appraisal prior to certification.
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388-57-070	Community services office--State employment serv- ice joint case responsibility.
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388-57-097	Community work experience program (CWEP).
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388-57-121	Purpose.
388-57-122	Eligible participants.
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**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS  
CHAPTER**

388-57-025	Acceptance of full or part-time employment--Effect of refusal on eligibility. [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-57-025, filed 10/23/79. Statutory Authority: RCW 74.08- .090. 79-03-013 (Order 1368), § 388-57-025, filed 2/15/79. Order 1101, § 388-57-025, filed 2/25/76; Order 906, § 388-57-025, filed 2/14/74; Order 750, § 388-57-025, filed 12/7/72; Order 610, § 388-57- 025, filed 9/22/71; Order 544, § 388-57-025, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-025, filed 5/14/70, effective 6/15/70; Order 340, § 388- 57-025, filed 2/14/69.] Repealed by 81-10-010 (Or- der 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090.
388-57-029	Person attending post-high school education or train- ing. [Order 750, § 388-57-029, filed 12/7/72; Order 610, § 388-57-029, filed 9/22/71; Order 544, § 388- 57-029, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-029, filed 5/14/70, effective 6/15/70.] Re- pealed by Order 858, filed 9/27/73.
388-57-030	Acceptance of training for employment--Effect of re- fusal on eligibility. [Statutory Authority: RCW 43- .20A.550. 79-11-081 (Order 1444), § 388-57-030, filed 10/23/79. Statutory Authority: RCW 74.08- .090. 79-03-013 (Order 1368), § 388-57-030, filed

- 2/15/79; Order 1165, § 388-57-030, filed 10/27/76; Order 906, § 388-57-030, filed 2/14/74; Order 750, § 388-57-030, filed 12/7/72; Order 610, § 388-57-030, filed 9/22/71; Order 544, § 388-57-030, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-030, filed 5/14/70, effective 6/15/70; Order 340, § 388-57-030, filed 2/14/69.] Repealed by 81-14-063 (Order 1670), filed 7/1/81. Statutory Authority: RCW 74.08.090.
- 388-57-035 Referral of employable applicant or recipient to division of vocational rehabilitation. [Order 544, § 388-57-035, filed 3/31/71, effective 5/1/71; Order 340, § 388-57-035, filed 2/14/69.] Repealed by Order 610, filed 9/22/71.
- 388-57-050 Work incentive program—Objective. [Order 340, § 388-57-050, filed 2/14/69.] Repealed by Order 544, filed 3/31/71, effective 5/1/71.
- 388-57-055 Work incentive program—Referral of AFDC recipient to state employment service. [Order 544, § 388-57-055, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-055, filed 5/14/70, effective 6/15/70; Order 414, § 388-57-055, filed 12/23/69; Order 340, § 388-57-055, filed 2/14/69.] Repealed by Order 750, filed 12/7/72.
- 388-57-060 Work incentive program—Mandatory participation by certified AFDC recipient. [Order 750, § 388-57-060, filed 12/7/72; Order 544, § 388-57-060, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-060, filed 5/14/70, effective 6/15/70; Order 340, § 388-57-060, filed 2/14/69.] Repealed by Order 832, filed 7/26/73.
- 388-57-062 Refusal of training or employment under WIN without good cause—Counseling period. [Statutory Authority: RCW 74.08.090. 79-03-013 (Order 1368), § 388-57-062, filed 2/15/79; Order 1165, § 388-57-062, filed 10/27/76; Order 832, § 388-57-062, filed 7/26/73.] Repealed by 82-01-041 (Order 1733), filed 12/16/81. Statutory Authority: RCW 74.23.120.
- 388-57-065 County office screening unit—Composition—Duties. [Order 414, § 388-57-065, filed 12/23/69; Order 340, § 388-57-065, filed 2/14/69.] Repealed by Order 452, filed 5/14/70, effective 6/15/70.
- 388-57-075 Work incentive program—Child care plan—Standards—Payment. [Order 544, § 388-57-075, filed 3/31/71, effective 5/1/71; Order 414, § 388-57-075, filed 12/23/69; Order 340, § 388-57-075, filed 2/14/69.] Repealed by Order 750, filed 12/7/72.
- 388-57-079 Work incentive program—Supplemental payments for trainees—Special authorization for clothing. [Order 544, § 388-57-079, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-079, filed 5/14/70, effective 6/15/70.] Repealed by Order 750, filed 12/7/72.
- 388-57-080 Work incentive program—Special authorization for transportation. [Order 544, § 388-57-080, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-080, filed 5/14/70, effective 6/15/70; Order 340, § 388-57-080, filed 2/14/69.] Repealed by Order 750, filed 12/7/72.
- 388-57-083 Work incentive program—Special authorization for supplementary medical care. [Order 544, § 388-57-083, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-083, filed 5/14/70, effective 6/15/70.] Repealed by Order 750, filed 12/7/72.
- 388-57-084 Work incentive program—Prereferral physical examination. [Order 544, § 388-57-084, filed 3/31/71, effective 5/1/71; Order 476, § 388-57-084, filed 9/8/70.] Repealed by Order 750, filed 12/7/72.
- 388-57-095 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.
- 388-57-110 Work incentive program—Special work projects. [Order 544, § 388-57-110, filed 3/31/71, effective 5/1/71; Order 397, § 388-57-110, filed 10/15/69.] Repealed by Order 750, filed 12/7/72.

**WAC 388-57-010 Utilization of employment security department.** The department of employment security shall be utilized to provide recipients of public assistance the opportunity to find and prepare for employment.

[Order 832, § 388-57-010, filed 7/26/73; Order 544, § 388-57-010, filed 3/31/71, effective 5/1/71; Order 340, § 388-57-010, filed 2/14/69.]

**WAC 388-57-015 Utilization of employment security department DES—Registration.** (1) An AFDC-E mandatory parent or stepparent who, as the principal wage earner, qualifies the assistance unit for the program shall be registered for WIN with DES through the CSO prior to granting of assistance.

(2) An AFDC-R mandatory registrant shall be registered for WIN with DES through the CSO at the time of granting of assistance. This requirement shall not affect the eligibility of the children for AFDC.

[Statutory Authority: RCW 74.23.120. 83-21-013 (Order 2035), § 388-57-015, filed 10/6/83. Statutory Authority: RCW 74.08.090. 81-10-010 (Order 1642), § 388-57-015, filed 4/27/81. Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-57-015, filed 10/23/79. Statutory Authority: RCW 74.08.090. 79-03-013 (Order 1368), § 388-57-015, filed 2/15/79; Order 1101, § 388-57-015, filed 2/25/76; Order 832, § 388-57-015, filed 7/26/73; Order 610, § 388-57-015, filed 9/22/71; Order 544, § 388-57-015, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-015, filed 5/14/70, effective 6/15/70; Order 340, § 388-57-015, filed 2/14/69.]

**WAC 388-57-020 Unemployment compensation status—Verification.** (1) An applicant for or recipient of AFDC who is potentially eligible for unemployment compensation is determined by the CSO based on work history and availability for employment, shall apply for unemployment compensation unless he or she furnishes written verification he or she is receiving, or not eligible to receive, unemployment compensation.

(2) A recipient of AFDC who becomes potentially eligible for unemployment compensation is required to comply with the provisions of subsection (1) of this section within thirty days.

(3) The spouse of the AFDC-E applicant or recipient who is potentially eligible for unemployment compensation is required to comply with the provisions of subsections (1) and (2) of this section.

[Statutory Authority: RCW 74.23.120. 83-21-013 (Order 2035), § 388-57-020, filed 10/6/83. Statutory Authority: RCW 74.08.090. 81-10-010 (Order 1642), § 388-57-020, filed 4/27/81. Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-57-020, filed 10/23/79; Order 1189, § 388-57-020, filed 2/18/77; Order 1051, § 388-57-020, filed 9/10/75; Order 832, § 388-57-020, filed 7/26/73; Order 610, § 388-57-020, filed 9/22/71; Order 544, § 388-57-020, filed 3/31/71, effective 5/1/71; Order 340, § 388-57-020, filed 2/14/69.]

**WAC 388-57-028 Vocational training.** (1) It is the objective of the department to assist some unemployed persons to obtain employment which is within their capacity to perform as soon as possible. When training is

the most appropriate method of fulfilling this objective, the department may support up to twenty-four continuous months of vocational training as defined in WAC 388-22-030. The twenty-four months shall not include the time necessary to acquire a general educational development certificate or high school diploma prior to enrollment in a vocational program.

(2) With the exception of work incentive program and vocational rehabilitation services training plans, the CSO must make a decision approving or disapproving a vocational training plan when an applicant or recipient requests child care or other supplemental payments.

(a) CSO approval is required for any vocational training plan making training necessary for the responsible relative to reside apart from his or her family if the responsible relative requests assistance to meet his or her needs while in training.

(3) Deleted.

(4) The CSO shall not approve a training plan when:

(a) The plan requires more than twenty-four continuous calendar months to meet the objective stated in subsection (1) of this section, or

(b) The plan does not meet the definition of vocational training as stated in WAC 388-22-030.

(5) In exceptional situations or when an individual is sufficiently handicapped to require more time than the average student to complete a two-year course, or if a short additional period is required to complete a previously developed plan, an exception may be requested under the rules in chapter 388-20 WAC.

(6) The CSO shall not authorize child care or other supplemental payments for an applicant or recipient in support of a training plan that has been disapproved.

[Statutory Authority: RCW 74.23.120. 83-21-013 (Order 2035), § 388-57-028, filed 10/6/83. Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-57-028, filed 10/23/79; Order 1199, § 388-57-028, filed 3/18/77; Order 1101, § 388-57-028, filed 2/25/76; Order 976, § 388-57-028, filed 10/28/74; Order 832, § 388-57-028, filed 7/26/73; Order 610, § 388-57-028, filed 9/22/71; Order 544, § 388-57-028, filed 3/31/71, effective 5/1/71; Order 355, § 388-57-028, filed 5/29/60.]

**WAC 388-57-032 Employment and training (E&T) program.** (1) The employment and training (E&T) program is a department of social and health services designated program which is complimentary to and consistent with the work incentive (WIN) program as described in this chapter. It is designed to provide services to employable recipients of AFDC not receiving work incentive (WIN) program services.

(2) The WIN rules, including all responsibilities, exemptions, sanctions, and protections in chapter 388-57 WAC apply to the employment and training (E&T) program except as outlined in WAC 388-57-032 and 388-57-036.

(3) The following services will be available through the E&T program to recipients in both WIN and non-WIN localities:

- (a) Placement in employment;
- (b) Referral to other programs offering public service employment (PSE) or training; and
- (c) Self-support services.

(4) In WIN areas, persons certified to WIN may be suspended to E&T.

[Statutory Authority: RCW 74.23.120. 83-21-013 (Order 2035), § 388-57-032, filed 10/6/83. Statutory Authority: RCW 74.08.090. 81-10-010 (Order 1642), § 388-57-032, filed 4/27/81; 80-02-023 (Order 1472), § 388-57-032, filed 1/9/80.]

**WAC 388-57-036 Employment and training (E&T)--Definitions.** The terms in chapter 388-57 WAC apply in the E&T program except:

(1) "Certification" means registration for E&T programs of AFDC applicants/recipients.

(2) "Registrant" means an applicant/recipient who is registered for E&T services.

(3) "Self-support services" means counseling, child care, transportation, miscellaneous expense, and medical payments during the certification period to assist the recipient in obtaining employment and training (E&T). These departmental payments are exempt.

(4) "DES-DSHS joint case responsibility" is not applicable in the E&T program.

(5) The thirty-dollar incentive payment is not applicable in the E&T program.

(6) Protective or vendor payments shall not be imposed upon noncooperating AFDC recipients not certified to WIN.

(7) Persons employed at least thirty hours per week are exempt from registration for E&T.

[Statutory Authority: RCW 74.23.120. 83-21-013 (Order 2035), § 388-57-036, filed 10/6/83; 82-01-041 (Order 1733), § 388-57-036, filed 12/16/81. Statutory Authority: RCW 74.08.090. 81-19-110 (Order 1700), § 388-57-036, filed 9/22/81; 81-10-010 (Order 1642), § 388-57-036, filed 4/27/81; 80-02-023 (Order 1472), § 388-57-036, filed 1/9/80.]

**WAC 388-57-040 Work incentive program--Statutory basis.** The work incentive (WIN) program is authorized by Part C of Title IV of the Social Security Act which directs the secretary of labor to establish work incentive programs in each state. The Washington state employment security department, by agreement with the secretary of the U.S. Department of Labor, provides AFDC recipients with the following service categories for placement:

- (1) Placement in employment, on-the-job training, or
- (2) Institutional and work experience training likely to lead to regular employment, or
- (3) Public service employment.

[Order 750, § 388-57-040, filed 12/7/72; Order 544, § 388-57-040, filed 3/31/71, effective 5/1/71; Order 397, § 388-57-040, filed 10/15/69; Order 340, § 388-57-040, filed 2/14/69.]

**WAC 388-57-045 Work incentive program--Definitions.** As used in the WIN program and in other rules of Title 388 WAC relating to WIN

(1) "Certification" means a written statement by the department to the state employment service that requested self-support services are provided or arranged for a specific participant and that the individual is ready for employment or training, or that no self-support services are needed and that the individual is at that time ready for employment or training.

(2) Deregistration means the removal of an individual from the WIN program. Such removal is required when the individual has

- (a) Refused to participate without good cause
- (b) Been required to register in error
- (c) Become exempt

(d) Become ineligible for AFDC except in the case where he is participating in subsidized employment, for example, public service employment (PSE) or on the job training (OJT), or is working in unsubsidized employment and receiving WIN funded services from the department.

(e) Become employed as a voluntary WIN participant even though the individual continues to be eligible for assistance.

(f) Been required to register and has failed to appear for a second appraisal interview without good cause.

(3) "Exempt" means an AFDC recipient who is not legally required to register for employment or training under the WIN program.

(4) "Incentive payments" means cash payment up to \$30 per month, paid semimonthly to a WIN participant who is participating in an activity for which such payments are authorized.

(5) "Institutional training" means skill training for a specific occupational area conducted by an instructor in a nonwork site setting.

(6) "On the job training (OJT)" means structured training for specific occupational skills provided by an employer in a work site setting. The AFDC-E recipient who is employed more than one hundred hours a month in OJT is considered to be fully employed and ineligible for assistance.

(7) "Public service employment" means a WIN component which provides subsidized, transitional employment for WIN participants with public or private nonprofit agencies.

(8) "Registrant" means an AFDC recipient who has registered for manpower services, training, and employment as provided by Part C of Title IV of the Social Security Act.

(9) "Registration" means the process whereby an AFDC applicant or recipient signs a completed registration card.

(10) "Self-support services" means those services necessary to enable the participant to enter employment or training which has been requested by the state employment service and provided or arranged by the department.

(11) "Training-related expenses" means those reimbursable expenses incurred by participants in order to participate in work experience and training.

(12) "Unassigned/recipient" means an AFDC recipient who is not working full time and is not in a WIN component or status.

(13) "Volunteer" means any AFDC recipient who is legally exempt from registration who chooses to register for WIN.

(14) "Working registrant" means an AFDC recipient registered with WIN, who is currently working full time in unsubsidized employment. Full time is defined as 40

hours a week except where fewer hours are normal to the occupation but on no account less than 30 hours per week.

[Order 1165, § 388-57-045, filed 10/27/76; Order 1101, § 388-57-045, filed 2/25/76; Order 872, § 388-57-045, filed 11/16/73; Order 750, § 388-57-045, filed 12/7/72.]

**WAC 388-57-056 Refusal to cooperate in appraisal prior to certification.** A WIN registrant, unless a volunteer, who is determined to have failed or refused without good cause to appear for appraisal or otherwise cooperate during the appraisal process will be deregistered from WIN by DES. An E&T registrant, unless a volunteer, who is determined to have failed or refused without good cause to appear for appraisal or otherwise cooperate during the appraisal process will be deregistered from E&T by the CSO.

(1) Any deregistered mandatory registrant shall be removed from the AFDC grant for failure to participate. This person's needs shall be reinstated in the grant after the sanction period and reregistration are completed or earlier if exempt status is acquired.

(2) If the deregistered recipient is the parent qualifying the assistance unit for AFDC-E, the entire assistance unit shall be terminated.

[Statutory Authority: RCW 74.23.120. 83-21-013 (Order 2035), § 388-57-056, filed 10/6/83. Statutory Authority: RCW 74.08.090. 81-10-010 (Order 1642), § 388-57-056, filed 4/27/81. Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-57-056, filed 10/23/79; Order 1118, § 388-57-056, filed 5/13/76.]

**WAC 388-57-057 Work incentive program--Certification of AFDC recipient to state employment service.**

(1) An AFDC recipient registered with WIN shall be certified to the state employment service when requested by the state employment service.

(2) Self-support services required by the individual shall be provided and continued as needed during the individual's participation in all WIN components, and for a thirty-day period from the start of paid employment. For this purpose, employment shall include full-time and part-time unsubsidized employment, WIN on-the-job training, WIN public service employment, and WIN suspense to other programs offering on-the-job training, public service employment, or other paid work.

(3) A certified mandatory registrant may not refuse supportive services if such refusal prevents the individual from accepting an appropriate work or training assignment. Such refusal shall be treated as a refusal to participate without good cause.

[Statutory Authority: RCW 74.23.120. 83-21-013 (Order 2035), § 388-57-057, filed 10/6/83; 82-13-081 (Order 1830), § 388-57-057, filed 6/21/82. Statutory Authority: RCW 74.08.090. 81-10-010 (Order 1642), § 388-57-057, filed 4/27/81. Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-57-057, filed 10/23/79; Order 1165, § 388-57-057, filed 10/27/76; Order 1118, § 388-57-057, filed 5/13/76; Order 1101, § 388-57-057, filed 2/25/76; Order 872, § 388-57-057, filed 11/16/73; Order 832, § 388-57-057, filed 7/26/73; Order 750, § 388-57-057, filed 12/7/72.]

**WAC 388-57-061 Refusal of training or employment under WIN/E&T without good cause.** (1) This

section does not apply to a voluntary WIN/E&T registrant 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 388-57-064 Refusal of training or employment or reduction of earnings under WIN without good cause--Deregistration sanction and reacceptance to WIN.** (1) A mandatory WIN registrant who has been found to have failed or refused without good cause to participate or has terminated employment, or has refused to accept employment, or has reduced earnings, shall be sanctioned as follows:

(a) For the first occurrence, the individual shall be deregistered and have his or her needs removed from the grant for three payment months beginning the first day

of the month in which the sanctioned individual's needs are removed;

(b) For the second and subsequent occurrences, the individual shall be deregistered and have his or her needs removed from the grant for six payment months beginning the first day of the month in which the sanctioned individual's needs are removed.

(c) In the AFDC-E program only, if the qualifying parent fails or refuses without good cause to participate or has terminated employment, or has refused to accept employment, or has reduced earnings, the sanctions in (1)(a) and (b) of this section shall be applied to the entire assistance unit.

(2) A voluntary registrant failing or refusing to participate without good cause shall be sanctioned by deregistration from WIN without removing the individual's needs from the grant as follows:

(a) For the first occurrence, the individual shall be deregistered for three payment months beginning the first day of the month such action can be taken;

(b) For the second and subsequent occurrences, the individual shall be deregistered for six payment months beginning the first day of the month such action can be taken.

(3) Implementation of this sanction is not governed by effective date rules in chapter 388-33 WAC.

(4) Assistance unit payments shall be determined in accordance with WAC 388-57-061.

(5) When a defacto failure or refusal to participate in WIN or termination of employment or refusal to accept employment or reduction in earnings is verified, an appointment for a face-to-face interview with WIN staff shall be made to determine if good cause exists for such act or pattern of behavior. The appointment notice shall explain the reasons for the appointment and the consequences of failure to keep the appointment.

(6) The WIN staff must exhaust efforts toward conciliatory resolution of disputes between the WIN staff and the registrant before the WIN staff issues a "notice of intended deregistration." Conciliation efforts to resolve disputes between the WIN staff and the registrant shall begin as soon as possible, but no later than ten days following the date of refusal or failure to participate pursuant to WAC 388-57-064(1).

(a) The period of conciliation may continue for a period of time not to exceed thirty days.

(b) Either the WIN staff or the registrant, upon written notice, may terminate the period sooner when either believes the dispute cannot be resolved by conciliation.

(c) Within two working days after termination of the conciliation period without resolution of the matter, the WIN staff shall issue a "notice of intended deregistration" to the registrant.

(7) The following conditions when verified shall constitute good cause for refusal of an offer of employment or refusal to continue employment:

(a) Physical, mental, or emotional inability of the individual to satisfactorily perform the work required;

(b) Inability of the individual to get to and from the job without undue cost or hardship to him or her;

(c) The nature of the work would be hazardous to the individual;

(d) The wages do not meet any applicable minimum wage requirements and are not customary for such work in the community;

(e) The job is available because of labor dispute; or

(f) Adequate child care is not available to the single-parent AFDC household.

[Statutory Authority: RCW 74.23.120. 83-21-013 (Order 2035), § 388-57-064, filed 10/6/83. Statutory Authority: RCW 74.22.110 and 74.23.120. 83-01-057 (Order 1924), § 388-57-064, filed 12/15/82. Statutory Authority: RCW 74.22.110. 82-05-005 (Order 1762), § 388-57-064, filed 2/4/82. Statutory Authority: RCW 74.23.120. 82-01-041 (Order 1733), § 388-57-064, filed 12/16/81. Statutory Authority: RCW 74.22.110. 79-10-082 (Order 1433), § 388-57-064, filed 9/21/79; Order 1165, § 388-57-064, filed 10/27/76; Order 1118, § 388-57-064, filed 5/13/76; Order 832, § 388-57-064, filed 7/26/73.]

**WAC 388-57-070 Community services office-- State employment service joint case responsibility.** The CSO shall participate with the local state employment service office in appraisal of registrants for participation in the WIN program; joint participation is also required in resolving disputes between WIN and the applicant or recipient.

[Statutory Authority: RCW 74.23.120. 83-21-013 (Order 2035), § 388-57-070, filed 10/6/83; Order 1165, § 388-57-070, filed 10/27/76; Order 750, § 388-57-070, filed 12/7/72; Order 544, § 388-57-070, filed 3/31/71, effective 5/1/71; Order 340, § 388-57-070, filed 2/14/69.]

**WAC 388-57-090 Refusal of training or employment under WIN/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.]

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**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;

(1986 Ed.)

(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.]

**WAC 388-57-120 Employment partnership program--Authority.** The employment partnership program is authorized under P.L. 97-35, 95 stat. 848; (42 U.S.C. Section 614), chapter 172, Laws of 1986, and as further provided in 45 CFR 239.

[Statutory Authority: RCW 74.08.090. 86-16-047 (Order 2403), § 388-57-120, filed 8/1/86.]

**WAC 388-57-121 Purpose.** (1) The purpose of this program is to provide wage subsidies to create job opportunities for targeted, hard-to-place AFDC recipients.

(2) The department transfers all or a portion of the welfare grant directly to a contracted employer. The employer matches the welfare grant at least dollar for dollar and issues to the participant a normal paycheck commensurate with the job classification.

[Statutory Authority: RCW 74.08.090. 86-16-047 (Order 2403), § 388-57-121, filed 8/1/86.]

**WAC 388-57-122 Eligible participants.** (1) Recipients of AFDC-regular are eligible for EPP in the following priority order:

(a) Participants who have been on assistance for more than one year and

(i) Have no child or children less than twelve years of age, and

(ii) Have had no earnings within the last year.

(b) Participants who are displaced homemakers (a displaced homemaker is a person eligible for displaced homemaker program services within the county of residence) whose youngest child or children is at least twelve years of age.



(c) Participants who have been unsuccessful in obtaining employment through the OPPORTUNITIES program and who do not need day care.

(d) Participants who have been unsuccessful in obtaining employment through the OPPORTUNITIES program and who may need day care.

(e) All other hard-to-place recipients of AFDC-regular.

(2) Eligible participants may volunteer and may not have any sanction applied for failure to participate.

[Statutory Authority: RCW 74.08.090. 86-16-047 (Order 2403), § 388-57-122, filed 8/1/86.]

**WAC 388-57-123 Eligible employers.** An employer, before becoming eligible to fill a position under the employment partnership program, shall certify to the employment security department that the employment, offer of employment, or work activity complies with the following conditions:

(1) The conditions of work are reasonable and not in violation of applicable federal, state, or local safety and health standards;

(2) The assignments are not in any way related to political, electoral, or partisan activities;

(3) The employer shall provide industrial insurance coverage as required by Title 51 RCW;

(4) The employer shall provide unemployment compensation coverage as required by Title 50 RCW;

(5) The employment partnership program participants hired following the completion of the program shall be provided benefits equal to those provided to other employees including Social Security coverage, sick leave, the opportunity to join a collective bargaining unit, and medical benefits.

[Statutory Authority: RCW 74.08.090. 86-16-047 (Order 2403), § 388-57-123, filed 8/1/86.]

**WAC 388-57-124 Conditions of employment.** Employment positions established by this program shall not be created as the result of, nor result in, any of the following:

(1) Displacement of current employees or overtime currently worked by these employees;

(2) The filling of positions that would otherwise be promotional opportunities for current employees;

(3) The filling of a position, before compliance with applicable personnel procedures or provision of collective bargaining agreements;

(4) The filling of a position created by termination, layoff, or reduction in work force.

(5) The filling of a work assignment customarily performed by a worker in a job classification within a recognized collective bargaining unit in that specific work site, or the filling of a work assignment in any bargaining unit in which funded positions are vacant, or in which regular employees are on layoff;

(6) A strike, lockout, or other bonafide labor dispute, or violation of any existing collective bargaining agreement between employees and employers;

(7) Decertification of any collective bargaining unit.

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[Statutory Authority: RCW 74.08.090. 86-16-047 (Order 2403), § 388-57-124, filed 8/1/86.]

**WAC 388-57-125 Funding and payment.** (1) The employer shall pay wages of at least five dollars per hour;

(2) The employer shall pay wages at the usual and customary rate of comparable jobs;

(3) A recoupment process shall recover state supplemented wages from an employer when a job does not last six months following the subsidization period unless:

(a) The employee voluntarily quits, or

(b) Is fired for good cause as determined under rules pursuant to chapter 50.20 RCW;

(4) Job placements shall have promotional opportunities or reasonable opportunities for wage increases;

(5) Supportive counseling and referral services may be provided;

(6) Employers shall provide monetary matching funds of at least fifty percent of total wages;

(7) Grants may be diverted for self-employment wages withheld for worker-owned businesses if:

(a) A feasibility study or business plan is completed on the proposed business; and

(b) The project is approved by the loan committee of the Washington state development loan fund as created by RCW 43.168.110.

(8) A participant shall be considered an AFDC recipient and remain eligible for Medicaid benefits even if the participant does not receive a residual grant. Employment partnership participants shall be eligible for:

(a) The thirty dollar plus one-third of earned income exclusion from income for up to nine months;

(b) The work-related expense disregard; and

(c) The child care expense disregard deemed available to recipient of AFDC in computing his or her grant, unless prohibited by federal law.

(9) A participant's total benefits will not decrease because of participation in the program.

[Statutory Authority: RCW 74.08.090. 86-16-047 (Order 2403), § 388-57-125, filed 8/1/86.]

## Chapter 388-59 WAC

### EMERGENCY ASSISTANCE AS LOANS TO SUPPLEMENTAL SECURITY INCOME BENEFICIARIES

#### WAC

388-59-010	State supplementary payments—Definitions.
388-59-020	State supplementary payments—General provisions.
388-59-030	State supplementary payments—Establishing eligibility.
388-59-040	State supplementary payments—Amount.
388-59-045	Separation of income and resources.
388-59-048	Termination of optional state supplement.
388-59-050	State supplementary payments—Additional requirements under specified circumstances—Chore services.
388-59-060	State supplementary payments—Overpayment and underpayment.
388-59-070	Mandatory state supplementary payments—Determining amount.
388-59-080	Mandatory state supplementary payments—Reduction.

- 388-59-090 Mandatory state supplementary payments—Termination of eligibility.  
 388-59-100 Representative payee.

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

- 388-59-120 Representative payee—Immediate hardship. [Order 910, § 388-59-120, filed 3/1/74.] Repealed by Order 940, filed 6/10/74 before publication in WAC.  
 388-59-130 Representative payee—Monthly standards for emergency payments. [Order 910, § 388-59-130, filed 3/1/74.] Repealed by Order 940, filed 6/10/74 before publication in WAC.  
 388-59-140 Representative payee—Application—Verification—Payment. [Order 910, § 388-59-140, filed 3/1/74.] Repealed by Order 940, filed 6/10/74 before publication in WAC.

**WAC 388-59-010 State supplementary payments—**

**Definitions.** (1) "Supplemental Security Income (SSI) program" means the federal program of Supplemental Security Income for the aged, blind, and disabled established by section 301 of the Social Security Amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).

(2) "Supplementary payment" means the state money payment to individuals receiving benefits under Title XVI (or would but for their income be eligible for such benefits) as assistance based on need in supplementation of SSI benefits.

(3) "Interim assistance" means assistance payments provided by the department to SSI applicants to meet basic needs starting with the month the eligible individual applies to SSA and ending with the month the first SSI benefit payment is made.

(4) "SSI benefit payment" means a federal benefit and any state supplementary amount determined to be payable. Advance payment and payment based upon presumptive disability or presumptive blindness are not considered SSI benefit payments for interim assistance purposes.

(5) "Mandatory state supplement" means the state money payment with respect to individuals who, for December 1973, were recipients of money payments under the department's former programs of old age assistance, aid to the blind and disability assistance.

(6) "Optional state supplement" means the elected state money payment to individuals eligible for SSI benefits on or after January 1, 1974.

(7) "Eligible individual" means an aged, blind or disabled person as defined in Title XVI of the Social Security Act. If two such persons are husband and wife (and have not been living apart for more than six months) only one of them may be considered an eligible individual. (See WAC 388-59-045.)

(8) "Eligible spouse" means an aged, blind or disabled individual who is the husband or wife of an eligible individual and who has not been living apart from such eligible individual for more than six months. (See WAC 388-59-045.)

(9) "Eligible couple" means an eligible individual and eligible spouse.

(10) "Essential person" means a person whose needs were taken into account in determining the need of an

OAA, AB, or DA recipient for December 1973, who lives in the home of such recipient, and who is not an eligible individual or eligible spouse.

(11) "OAA, AB, DA" means the department's programs of old age assistance, aid to the blind and disability assistance under Titles I, X and XIV of the Social Security Act and repealed by Public Law 92-603 effective January 1, 1974.

(12) "Grandfathering" means the process by which OAA, AB, and DA grants for December 1973, were converted to SSI and state supplementary payments effective January 1, 1974.

(13) "Ineligible spouse" means the husband or wife of an eligible individual who is either not aged, blind or disabled or although aged, blind or disabled has not applied for SSI.

(14) "Living alone" designates an individual or couple who live in their own home or in one of the following alternate care situations: Congregate care, adult family home, foster family group home, or DD group home.

(15) "Living in household of another" designates an individual or couple who do not pay a pro rata share of the household expenses based on fair market value or when both board and room are supplied.

[Statutory Authority: RCW 74.08.090. 82-06-052 (Order 1774), § 388-59-010, filed 3/3/82; 79-04-036 (Order 1379), § 388-59-010, filed 3/22/79; Order 910, § 388-59-010, filed 3/1/74.]

**WAC 388-59-020 State supplementary payments—**

**General provisions.** (1) State supplementary payments are administered by the Social Security Administration (SSA) pursuant to an agreement with the department.

(2) The Social Security Administration shall make determinations of eligibility for state supplementary payments with respect to individuals residing in the state who are or will be receiving (or would but for their income be eligible to receive) basic federal payments, and shall make determinations of eligibility for mandatory state supplements.

(3) The Social Security Administration shall make state supplementary payments to individuals determined to be eligible in such amounts as agreed upon with the department.

(4) The Social Security Administration shall provide individuals reasonable notice and opportunity for a hearing with respect to findings of fact and decisions as to the rights of such individuals applying for optional state supplementary payments or mandatory state supplementary payments.

(5) The SSA shall impose, as promptly as is feasible, deductions against supplementary payments or mandatory minimum supplements, if any are validly prescribed by the state, on eligible individuals or eligible spouses for failure to comply with reporting requirements established by SSA.

(6) SSA shall make determinations of eligibility for Title XIX medical assistance for eligible individuals and eligible spouses as part of the determination of eligibility for SSI and state supplementary payments.

(a) Essential spouse remains eligible for Title XIX medical as long as their "grandfathered" essential spouse status does not cease.

(b) Ineligible spouses requesting medical assistance must make a separate application to the department.

[Statutory Authority: RCW 74.08.090. 79-04-036 (Order 1379), § 388-59-020, filed 3/22/79; Order 910, § 388-59-020, filed 3/1/74.]

**WAC 388-59-030 State supplementary payments-- Establishing eligibility.** (1) The Supplemental Security Income application form shall serve as an application for a state supplementary payment.

(2) Any individual who is, or would be, eligible to receive supplementary payments may waive the right by making a written request for waiver to SSA.

(a) When an ineligible spouse and an eligible individual have minor children eligible for AFDC, the ineligible spouse may choose to waive the state supplement and receive AFDC as part of the child's assistance unit.

(b) Any individual or his/her spouse who waives supplementary payments for oneself or his/her ineligible spouse shall not receive state-funded general assistance in lieu of the supplementary payments.

(3) Any individual who has waived supplementary payments may revoke such waiver at anytime by making a written request to the Social Security office.

(4) A "grandfathered" recipient retains such status as long as he continues to meet the eligibility requirements for OAA, AB and DA in effect for the state programs prior to January 1, 1974.

[Statutory Authority: RCW 74.08.090. 79-04-036 (Order 1379), § 388-59-030, filed 3/22/79; Order 910, § 388-59-030, filed 3/1/74.]

**WAC 388-59-040 State supplementary payments-- Amount.** (1) The amounts of state supplementary payments shall be as specified pursuant to the department's agreement with SSA.

(2) The payment level of state supplementary payments made to eligible individuals and couples may vary according to geographical location and the following type of living arrangement.

(a) Living alone as an individual, as a couple with eligible individual and eligible spouse or essential person, or as a couple with eligible individual and ineligible spouse.

(b) Living in household of another as an individual, as a couple with eligible individual and eligible spouse or essential person, or as a couple with eligible individual and ineligible spouse.

(3) Countable income, of an eligible individual or eligible couple, is determined in the same manner as such income is determined under SSI. Countable income affects the amount of state supplementary payments as follows:

(a) Countable income shall first be deducted from the basic federal benefit amount payable to an eligible individual or eligible couple.

(b) If countable income is equal to or less than the amount of the federal benefit rate, the full amount of the state supplementary payment as specified in the department's agreement with SSA shall be made.

(c) If countable income exceeds the amount of the federal benefit rate, the state supplementary payment shall be reduced by the amount of such excess.

(d) No state supplementary payment shall be made where countable income is equal to or exceeds the sum of the federal benefit rate and the state supplementary payment rate.

(4) A state supplementary payment shall be made on a monthly basis and shall be included in the same check as a federal benefit is payable. It shall be for the same month as the federal benefit.

(5) No optional state supplement will be paid:

(a) To any individual or couple residing in a public institution;

(b) To any individual or couple residing in a Title XIX facility;

(c) To grandfathered cases which consist of:

(i) An eligible individual and more than one essential person;

(ii) An eligible individual, eligible spouse and one or more essential persons.

[Statutory Authority: RCW 74.08.090. 79-04-036 (Order 1379), § 388-59-040, filed 3/22/79; Order 910, § 388-59-040, filed 3/1/74.]

**WAC 388-59-045 Separation of income and resources.** (1) Income and resources are considered available to meet need of both husband and wife except when spouses are separated.

(a) When determining eligibility and benefit amounts for an aged, blind, or disabled individual and a spouse who is neither aged, blind or disabled or who has not applied, separation occurs after the husband and wife have lived apart for one month.

(b) When determining eligibility and benefit amounts for an aged blind or disabled individual and an aged, blind or disabled applying spouse, separation occurs after the husband and wife have lived apart for six months, except that for determining benefit amounts when either spouse resides in a Title XIX facility throughout a calendar month, separation occurs with the first month.

(2) The income and resources of a parent are considered available to meet the needs of a disabled child under age eighteen and any disabled students under age twenty-one only when:

(a) The child lives in the same household as the parent; and

(b) The amount of the parent's income available to the disabled child has first been reduced by all allowable earned or unearned income disregards and allocated to meet the needs, as established by SSA, of all ineligible family members residing in the same household.

(3) The income and resources of a parent are not considered available to meet the needs of a disabled student who is age twenty-one through twenty-two; such a person may still be considered a "child" for other SSI purposes only.

[Statutory Authority: RCW 74.08.090. 79-04-036 (Order 1379), § 388-59-045, filed 3/22/79.]

**WAC 388-59-048 Termination of optional state supplement.** The optional supplement shall be terminated:

(1) Beginning the first month after the month the individual dies.

(2) The first month after the month in which the individual ceases to meet the categorical eligibility requirements of aged, blind or disabled.

(3) When the individual ceases to reside in Washington state.

(4) When the individual fails to apply for and, if eligible, obtain benefits or accept vocational services as specified by SSA.

(5) When the individual's disability is based on alcoholism or drug addiction and he/she is not undergoing treatment required by SSA.

(6) When the individual has resided throughout a calendar month in a public institution or a Title XIX facility.

[Statutory Authority: RCW 74.08.090, 79-04-036 (Order 1379), § 388-59-048, filed 3/22/79.]

**WAC 388-59-050 State supplementary payments—Additional requirements under specified circumstances—Chore services.** (1) The department shall determine need and make payment for additional requirements as provided in WAC 388-29-150 through 388-29-270 to recipients of state supplementary payments.

(2) Recipients of SSI and/or state supplementary payments are eligible for chore services as provided in WAC 388-15-210 through 388-15-212.

[Statutory Authority: RCW 74.08.090, 79-04-036 (Order 1379), § 388-59-050, filed 3/22/79; Order 910, § 388-59-050, filed 3/1/74.]

**WAC 388-59-060 State supplementary payments—Overpayment and underpayment.** (1) Upon determination that an overpayment has been made, SSA will make adjustments against future state supplementary payments for which the person is entitled.

(2) Recoupment procedures in effect for recovery of SSI benefit overpayments shall also apply to the recovery of state supplementary overpaid amounts. The department shall not compensate SSI beneficiaries for reductions of their income caused by such recoupment procedures.

(3) Upon determination that an underpayment of state supplementary payments is due and payable, the underpaid amount shall be paid to the underpaid claimant by SSA.

(4) If the underpaid person dies before receiving the underpaid amount of state supplementary payment, the underpaid amount shall be paid by SSA to the claimant's eligible spouse. If the deceased claimant has no eligible spouse, no payment of the underpaid amount shall be made.

[Statutory Authority: RCW 74.08.090, 79-04-036 (Order 1379), § 388-59-060, filed 3/22/79; Order 910, § 388-59-060, filed 3/1/74.]

(1986 Ed.)

**WAC 388-59-070 Mandatory state supplementary payments—Determining amount.** (1) For individuals receiving OAA, AB or DA during December 1973 the amount of a state supplementary payment shall be

(a) The amount by which such individual or couple's December 1973 income exceeds the amount of SSI benefit plus other income used in computing assistance payable for such month, or

(b) The optional supplemental payment as determined by the department if such is a greater amount.

(2) "December 1973 income" means an amount equal to the sum of

(a) Money payments an individual would have received as a recipient of OAA, AB or DA according to rules in effect for June 1973 relating to eligibility for and amount of such payments, and

(b) The amount of the income of such individual other than public assistance money payments received by such individual in December 1973 after applying all appropriate income exclusions.

(3) A reduction shall be made for income not properly reported which would have resulted in a reduction of public assistance.

[Order 910, § 388-59-070, filed 3/1/74.]

**WAC 388-59-080 Mandatory state supplementary payments—Reduction.** (1) If for any month after December 1973 there is a change with respect to any special need or special circumstance which, if such change had existed in December 1973, would have caused a reduction in the amount of such individual's OAA, AB or DA payment, then for such month and for each month thereafter, the amount of the mandatory state supplement payable to such individual shall be reduced as provided by rules in effect for OAA, AB or DA for the month of June 1973.

(2) A mandatory state supplementary payment shall not be adjusted to a higher amount than that computed as payable for January 1974.

[Order 910, § 388-59-080, filed 3/1/74.]

**WAC 388-59-090 Mandatory state supplementary payments—Termination of eligibility.** An individual eligible for mandatory state supplementary payments beginning in January 1974 shall not be eligible for such payments.

(1) Beginning with the month after the month in which such individual dies, or

(2) The first month after the month in which such individual ceases to meet the definition of aged, blind or disabled under which he received assistance for December 1973, except that

(3) No individual shall be entitled to receive a mandatory supplementary payment for any month in which such individual was ineligible to receive SSI because such individual:

(a) Throughout such month is an inmate of a public institution, or

(b) Fails within 30 days to take all appropriate steps to apply for and, if eligible, obtain benefits as specified by SSA, or

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(c) Is eligible solely by reason of disability and medically determined to be a drug addict or an alcoholic unless such individual is undergoing treatment as required by SSA, or

(d) For any month during all of which such individual is outside the United States, or

(e) Is under 65 and refuses without good cause to accept vocational services for which he is referred by SSA.

(4) The first month after the month in which the individual ceases to reside in Washington state.

[Statutory Authority: RCW 74.08.090, 79-04-036 (Order 1379), § 388-59-090, filed 3/22/79; Order 910, § 388-59-090, filed 3/1/74.]

**WAC 388-59-100 Representative payee.** The secretary may act as representative payee for a child eligible for SSI benefits.

[Order 1194, § 388-59-100, filed 3/3/77; Order 910, § 388-59-100, filed 3/1/74.]

### Chapter 388-62 WAC

#### REPATRIATED UNITED STATES CITIZENS-- ASSISTANCE

##### WAC

388-62-020	Repatriated United States citizens—Program objectives.
388-62-035	Repatriated United States citizens—Department responsibilities.
388-62-050	Persons served.
388-62-070	Repatriated United States citizens—Eligibility.
388-62-075	Repatriated United States citizens—Standards of assistance.
388-62-080	Repatriated United States citizens—Resources.
388-62-095	Repatriated United States citizens—Assistance payments—Types of grants.
388-62-100	Payments of assistance—Grants.
388-62-115	Repatriated United States citizens—Duration of assistance.
388-62-130	Repatriated United States citizens—Welfare services.
388-62-135	Repatriated United States citizens—Care and protection of children.
388-62-155	Repatriated United States citizens—Food stamps.
388-62-160	Repatriated United States citizens—Work incentive program.
388-62-165	Repatriated United States citizens—Funeral—burial expenses.
388-62-170	Repatriated United States citizens—Related social services.
388-62-190	Repatriated United States citizens—Safeguarding information.
388-62-200	Repatriated United States citizens—Reimbursement and assignment of claims.

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

388-62-010	Assistance for United States citizens returned from foreign countries. [Regulation 26.00, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.
388-62-030	Administration—General. [Regulation 26.20, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.
388-62-055	Referral and identification of persons. [Regulation 26.31, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.
388-62-060	Referral procedure. [Regulation 26.32, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.

388-62-105 Payments of assistance—Medical care. [Regulation 26.53, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.

388-62-180 Recording. [Regulation 26.80, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.

388-62-185 Reporting. [Regulation 26.81, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.

388-62-205 Form for assignment of claim to United States for assistance received under Section 1113 of the Social Security Act. [Regulation 26.91, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.

**WAC 388-62-020 Repatriated United States citizens—Program objectives.** The purpose of this program is to help needy U.S. citizens and their dependents returned from foreign countries for the period necessary and to enable them to utilize other resources for maintenance as soon as possible. A person is needy who does not have sufficient resources immediately available to meet his requirements for living. The intent is to provide assistance only for a limited period of time to persons who are without available resources. Recipients of temporary assistance, with some exceptions, are required to repay the cost of such assistance to the United States in accordance with their ability.

[Order 546, § 388-62-020, filed 3/31/71, effective 5/1/71; Regulation 26.10, filed 1/24/64.]

**WAC 388-62-035 Repatriated United States citizens—Department responsibilities.** (1) Persons returning from foreign countries because of destitution or illness are likely to have urgent needs and hence it is essential that needed services are rendered as quickly as possible.

(2) The local office is responsible for developing a plan with relatives, the person and dependents who return, and with social agencies for reception and resettlement. In carrying out the plan, the local office provides transportation, financial assistance, medical care and hospitalization, and social service for adults and unaccompanied children as needed. It may be necessary to perform the following activities in carrying out this responsibility:

(a) Conduct a social study, before or after return to this country, regarding possibilities of employment, the willingness and ability of relatives to assist the individual, and other resources available for self-support, or if it appears that there may be need for assistance indefinitely the possibility of obtaining assistance in the state of residence or elsewhere.

(b) Meet the returning person and dependents at the port of entry and help them with problems aggravated or induced by illness, and to develop resources available for self-support, or, if it appears they may be in need indefinitely, the possibility of obtaining assistance in the state of residence or elsewhere.

(c) Arrange for transportation from the port of entry to place of residence or other destination, if after social study this is in the best interests of the individual.

(d) Refer persons to available employment, retraining, vocational rehabilitation, and medical services.

(e) Assure safeguards for children not under the immediate care and protection of their parents. Agency responsibility for unaccompanied minor children should not end until adequate legal protection is established.

(f) Inform persons requesting assistance of the provisions governing repayment to the United States of the cost of assistance and make recommendations to USDHEW as to their financial ability to repay.

[Order 969, § 388-62-035, filed 9/13/74; Order 546, § 388-62-035, filed 3/31/71, effective 5/1/71; Regulation 26.21, filed 1/24/64.]

**WAC 388-62-050 Persons served.** (1) To qualify for help from the program, an individual must be:

(a) A U.S. citizen or a dependent of a U.S. citizen (returned from a foreign country)

(b) Identified by the department of state as returned or brought from a foreign country because of destitution or illness

(c) Without resources immediately accessible to meet his needs.

(2) Within the above-identified coverage are U.S. citizens and their dependents who have returned from Cuba on or after September 1, 1960.

[Regulation 26.30, filed 1/24/64.]

**WAC 388-62-070 Repatriated United States citizens—Eligibility.** (1) To qualify for help from the program, an individual must be

(a) A U.S. citizen or a dependent of a U.S. citizen returning from a foreign country,

(b) Identified by the department of state as returned or brought from a foreign country because of destitution, or illness other than mental illness,

(c) Without resources immediately accessible to meet his needs.

(2) Within the above identified coverage are U.S. citizens and their dependents who have returned from Cuba on or after September 1, 1960.

(3) Except in the case of U.S. citizens who have returned from Cuba, the need for financial assistance and medical care is the only factor of eligibility to be determined by the ESSO. The fact that an individual may have resources in a foreign country does not make him ineligible if the foreign country prohibits their removal.

(4) Temporary assistance under this program is limited to the first 90 days from the date of arrival of the person in the United States. If a person is handicapped in attaining self-support or self-care due to age, disability, lack of vocational preparation or similar reasons, an extension beyond the above limit may be requested from the Secretary of USDHEW.

[Order 1082, § 388-62-070, filed 12/24/75; Order 546, § 388-62-070, filed 3/31/71, effective 5/1/71; Regulation 26.40, filed 1/24/64.]

**WAC 388-62-075 Repatriated United States citizens—Standards of assistance.** (1) Temporary assistance as used herein means money payments, medical care, temporary billeting, transportation, and other goods and services necessary for the health or welfare of individuals

including guidance, counseling, and other welfare services. Assistance provided to adult repatriates shall be based upon supplemental security income standards, including the state supplement. The department's standards for the aid to families with dependent children or for foster care shall be used in determining the amount of financial assistance needed for families, with such adaptation as may be necessary due to the composition of the family, and without the use of the maximum cost standards for requirements.

(2) In determining the amount necessary for current and continuing self-support, consideration shall be given to the requirements of dependents, mortgage payments on real property occupied by the recipient as his home, for life insurance premiums, and for payments on obligations including medical bills.

(3) Depending upon the circumstances relating to repatriation, assistance may be granted to individuals and families in their own homes or for their maintenance in congregate facilities, and for board and room in hotels or private homes. Provision may also be made for

(a) Transportation to their place of residence, to their relatives, or to a place where they can be resettled. The least costly and most direct means of transportation should be used unless effective service to the individual calls for providing other accommodations. Transportation also includes travel expenses, such as meals and lodging enroute and assistance with luggage, checking, storage, or transportation of personal effects.

(b) The cost of a special diet recommended by a physician

(c) Purchase of restaurant meals

(d) Housing arrangements to provide adequate accommodations

(e) Essential clothing for an initial supply and for the maintenance and replacement of such supply

(f) Medical and hospital care which a physician considers necessary because of the condition of the individual's health. Ordinarily, medical or hospital care at the port of entry is intended for treatment of acute illness which prevents the individual from traveling to his final destination where he would be able to obtain more complete care — see WAC 388-83-045.

(g) Communication by phone or telegraph to contact relatives, friends, or former employers to obtain access to resources for self-support.

(4) If it appears that a person may need financial assistance for maintenance after he reaches his destination, the local office, in addition to supplying transportation from the port of entry, may also provide sufficient funds for maintenance until he can contact the state-local agency on arrival at his destination. If foster care is required, standards for that program are used.

(5) Within 60 days after arrival in the United States, all persons who are 65 years of age, blind or disabled, shall be referred to the Social Security administration to apply for supplemental security income benefits. Assistance from the repatriate program shall be terminated immediately upon determination of eligibility for supplemental security income benefits.

[Order 969, § 388-62-075, filed 9/13/74; Order 546, § 388-62-075, filed 3/31/71, effective 5/1/71; Regulation 26.41, filed 1/24/64.]

**WAC 388-62-080 Repatriated United States citizens--Resources.** (1) The resources considered in an emergency shall be only those immediately accessible for use at the time financial assistance is needed. Resources may be considered to be immediately accessible when they are in existence, the value is ascertainable, they are under the control of the individual, and he can draw upon them for maintenance.

(2) An individual may have resources through the company which employed him prior to repatriation. This company or former employer may assist their employee by financing transportation costs, living expenses, medical care, etc. Eligibility for benefits and assistance under established income maintenance programs should be considered a resource and help in securing such resources should be provided as soon as possible.

[Order 546, § 388-62-080, filed 3/31/71, effective 5/1/71; Regulation 26.42, filed 1/24/64.]

**WAC 388-62-095 Repatriated United States citizens--Assistance payments--Types of grants.** Assistance is granted in cash or in kind to the recipient or in his behalf. It may be more convenient to grant assistance in kind at the port of entry and for transportation to the place of residence or resettlement. Cash assistance when needed temporarily in the place of residence or resettlement may be more appropriate. If there is no adult to whom a money payment can be made, or when congregate or other group care is purchased, payment can be made to vendors.

[Order 546, § 388-62-095, filed 3/31/71, effective 5/1/71; Regulation 26.51, filed 1/24/64.]

**WAC 388-62-100 Payments of assistance--Grants.** (1) Grants for repatriated U.S. nationals shall be authorized and paid by use of procedures specified for general assistance noncontinuing assistance in chapter 388-62 WAC, except when foster care is authorized.

(2) SF 4595-B or SF 4595-B(T) certification of cash noncontinuing assistance, is used to certify a cash grant. SF 2600, disbursing order, is used to authorize a vendor payment.

(3) SF 5822-G, authorization of noncontinuing assistance, shall be used to compute and authorize grants.

(4) If foster care is required, payment is authorized by county office submittal of a voucher (A 19-PA1) to the state office monthly with appropriate codes entered. SF 5822-C is not used.

[Regulation 26.52, filed 1/24/64.]

**WAC 388-62-115 Repatriated United States citizens--Duration of assistance.** The need for assistance is expected to be temporary since most returning United States citizens will be able to develop sufficient resources for maintenance or will soon be able to manage for themselves without financial help. If necessary, assistance may be continued on a temporary basis after the

individual or family arrives at the place of residence or resettlement while the agency in the state of residence or resettlement makes a more complete investigation to determine need for further assistance, the amount of assistance required and the availability of other assistance or benefits. Assistance may be continued to persons without available resources until they become self-supporting or until their eligibility is established for assistance under any other public assistance program. If assistance is needed beyond the period of reception, the local office should review the recipient's situation at frequent intervals to assure that the need for assistance continues and that no other arrangements for maintenance can be made.

[Order 546, § 388-62-115, filed 3/31/71, effective 5/1/71; Regulation 26.55, filed 1/24/64.]

**WAC 388-62-130 Repatriated United States citizens--Welfare services.** Welfare services are all services other than financial assistance to help individuals or families adapt to the changes in their circumstances and to become self-sustaining as quickly as possible. These services may include counseling and referral in regard to employment, re-training, care and education of children, and resettlement. Most repatriated persons will have roots somewhere in this country and therefore will want to leave the port of entry as soon as appropriate arrangements for travel can be made.

[Order 546, § 388-62-130, filed 3/31/71, effective 5/1/71; Regulation 26.60, filed 1/24/64.]

**WAC 388-62-135 Repatriated United States citizens--Care and protection of children.** Services should be provided for the care and protection of children, including care of children in foster homes or institutions. Social services or arrangements for facilities that supplement or substitute for parental care and supervision shall be made available as needed through the child welfare services program. Such services and assistance shall conform to the department's standards for foster home, receiving home, or institutional care. Recognized child welfare practices shall be observed in protecting the welfare of an unaccompanied minor child.

[Order 969, § 388-62-135, filed 9/13/74; Order 546, § 388-62-135, filed 3/31/71, effective 5/1/71; Regulation 26.61, filed 1/24/64.]

**WAC 388-62-155 Repatriated United States citizens--Food stamps.** Repatriated U.S. citizens may be certified for federal food coupons as noncontinuing assistance recipients, or if they receive no assistance as nonrecipients.

[Order 546, § 388-62-155, filed 3/31/71, effective 5/1/71; Regulation 26.71, filed 1/24/64.]

**WAC 388-62-160 Repatriated United States citizens--Work incentive program.** Repatriated U.S. citizens shall not be referred to the work incentive program.

[Order 546, § 388-62-160, filed 3/31/71, effective 5/1/71; Regulation 26.72, filed 1/24/64.]

**WAC 388-62-165 Repatriated United States citizens--Funeral-burial expenses.** An application for funeral or burial expenses for a repatriated U.S. citizen must be cleared with the department's regional administrator before payment is authorized.

[Order 969, § 388-62-165, filed 9/13/74; Order 546, § 388-62-165, filed 3/31/71, effective 5/1/71; Regulation 26.73, filed 1/24/64.]

**WAC 388-62-170 Repatriated United States citizens--Related social services.** Social services available to public assistance recipients shall be furnished to any U.S. repatriated citizen who requests them, without regard to eligibility for financial assistance.

[Order 546, § 388-62-170, filed 3/31/71, effective 5/1/71; Regulation 26.74, filed 1/24/64.]

**WAC 388-62-190 Repatriated United States citizens--Safeguarding information.** (1) The use of information obtained about persons who receive temporary assistance under this program must be limited to the purpose for which information was received. This limitation applies to

(a) Information about names and addresses including lists,

(b) Information furnished on applications, reports of investigations, medical reports, correspondence, and other records concerning the condition or circumstances of any person from whom or about whom information is obtained, whether recorded or not recorded,

(2) Local office evaluations of information may be released to another agency from whom the applicant has requested services and whose objective is the protection or advancement of his welfare. The basis for this disclosure is that the request constitutes an actual or implied consent for release of relevant information to such agency and a recognition that the release is to secure services for his benefit.

(3) Disclosure should be made only to representatives of other agencies which can give assurance that

(a) The confidential character of such information will be preserved,

(b) The information will be used only for the purposes for which it is made available, and for the functioning of the inquiring agency, and

(c) The standards of protection of the inquiring agency are equal to those of the department as to staff use of information and protective office equipment and procedures. This does not preclude disclosure upon proper inquiry of information about the presence of an eligible person in a hospital, or about his general condition and progress.

(4) Inspection of lists or rolls of persons furnished assistance under this program and publication of their names if prohibited.

[Order 969, § 388-62-190, filed 9/13/74; Order 546, § 388-62-190, filed 3/31/71, effective 5/1/71; Regulation 26.82, filed 1/24/64.]

**WAC 388-62-200 Repatriated United States citizens--Reimbursement and assignment of claims.** (1) The local office function with respect to repayment is to

(a) Explain to an applicant that repayment is expected of persons with sufficient financial ability,

(b) Determine his ability to repay,

(c) Develop a plan of repayment when possible, and

(d) Recommend whether repayment is indicated.

(2) The kind and value of resources available to the individual or family and the obligations which must be met from these resources in the future must be explored. When possible, this evaluation should be made at the time assistance is approved for the individual.

(3) The department's rules and procedures for determining eligibility and need for federal aid are to be applied in this exploration, subject to the following:

(a) Ability to repay is considered to exist when resources in excess of continuing needs can be expected to become readily available to an individual within a reasonable period of time after self-support is attained. One year may be used as a reasonable period of time. It is not intended that an individual, in repaying the federal government, deplete himself of resources which he needs to become independent or to maintain his independence. Resources are considered readily available when they are under control of the individual and are sufficient both for this maintenance and for repayment.

(b) Real and personal property may be considered according to the department's rules as to kind and method of determining the value. Resources intended for a future contingency, such as life insurance, ordinarily would not be considered readily available for repayment.

(c) In exploring an individual's resources, any claim he has against any person, trust or estate, partnership, corporation, or government in a foreign country shall be considered. Such claims may be assigned to the United States according to section 1113 of the Social Security act in making repayment of assistance. Assignment of such claim to the United States shall be required if no other resource in excess of that necessary for maintenance is available to an individual for repayment of assistance. Assignments are governed by the law of the state in which the assignment is executed.

(d) Assistance of less than fifty dollars is impracticable for collection. Repayment ordinarily will not be sought for assistance to cover incidental small expenses, such as overnight accommodations and meals in the course of reception, if no other assistance is furnished.

(4) As soon as an individual is found financially able to repay he shall be informed of the determination and the basis for it, and to discuss his plans for repayment.

(5) On termination of assistance, the USDHEW will notify the individual of the amount paid to him or in his behalf from information furnished by the department and will request repayment. Repayment should be made by personal check, cashier's check, or money order, payable (and sent directly) to the USDHEW, Washington, D.C., with sufficient identifying information to credit the payment properly. Checks made payable to the department of social and health services should be endorsed to the USDHEW.

[Order 969, § 388-62-200, filed 9/13/74; Order 546, § 388-62-200, filed 3/31/71, effective 5/1/71; Regulation 26.90, filed 1/24/64.]



## Chapter 388-70 WAC

CHILD WELFARE SERVICES--FOSTER CARE--  
ADOPTION SERVICES--SERVICES TO  
UNMARRIED PARENTS

## WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS  
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388-70-014	Eligibility for foster care—Need. [Order 1123, § 388-70-014, filed 6/7/76; Order 1040, § 388-70-014, filed 8/7/75; Order 965, § 388-70-014, filed 8/29/74; Order 913, § 388-70-014, filed 3/1/74.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
388-70-015	Foster care—Definition. [Order 623, § 388-70-015, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
388-70-016	Placement of child in foster care. [Order 1138, § 388-70-016, filed 7/29/76; Order 1123, § 388-70-016, filed 6/7/76; Order 965, § 388-70-016, filed 8/29/74; Order 913, § 388-70-016, filed 3/1/74.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
388-70-017	Rights of natural parents of child. [Order 1123, § 388-70-017, filed 6/7/76; Order 913, § 388-70-017, filed 3/1/74.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
388-70-018	Foster care—Duration of service. [Order 623, § 388-70-018, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
388-70-019	Responsibility of foster parents. [Order 913, § 388-70-019, filed 3/1/74.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
388-70-020	Services offered. [Regulation 70.020, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
388-70-025	Foster care—Eligibility. [Order 623, § 388-70-025, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
388-70-030	Application and requests for child welfare services. [Regulation 70.030, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
388-70-040	Foster care—Request for services. [Order 623, § 388-70-040, filed 10/27/71; Regulation 70.040, filed 3/22/60.] Repealed by Order 913, filed 3/1/74.
388-70-043	Foster care—Authorization for placement. [Order 763, § 388-70-043, filed 1/10/73; Order 623, § 388-70-043, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
388-70-046	Foster care—Rights of natural parents of child. [Order 623, § 388-70-046, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
388-70-047	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.
388-70-049	Payment standards—Foster care in boarding school. [Order 913, § 388-70-049, filed 3/1/74.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
388-70-050	Requests from parents. [Regulation 70.050, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
388-70-052	Overpayments of foster care. [Order 913, § 388-70-052, filed 3/1/74.] Repealed by Order 1186, filed 2/3/77.
388-70-053	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.

- 388-70-055 Foster care—Responsibility of foster parents. [Order 623, § 388-70-055, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
- 388-70-060 Services to the child in his own home. [Regulation 70.060, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-065 Foster care—Payment. [Order 623, § 388-70-065, filed 10/27/71.] Repealed by Order 825, filed 7/26/73.
- 388-70-070 Referrals to juvenile court. [Regulation 70.070, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-080 Foster care. [Regulation 70.080, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-085 Foster care—Determination of parents' financial ability to support child. [Order 623, § 388-70-085, filed 10/27/71.] Repealed by Order 918, filed 3/14/74.
- 388-70-090 Payment for foster care. [Regulation 70.090, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-100 Adoption services. [Regulation 70.100, filed 3/22/60.] Repealed by Order 1167, filed 10/27/76.
- 388-70-110 Services to unmarried parents. [Order 1020, § 388-70-110, filed 4/29/75; Order 689, § 388-70-110, filed 6/15/72; Regulation 70.110, filed 3/22/60.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-111 Services to unmarried parents—Duration of service. [Order 689, § 388-70-111, filed 6/15/72.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-112 Services to unmarried parents—Persons eligible. [Order 1020, § 388-70-112, filed 4/29/75; Order 689, § 388-70-112, filed 6/15/72.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-114 Services to unmarried parents—Payment. [Order 689, § 388-70-114, filed 6/15/72.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-116 Services to unmarried parents—Parents' responsibility. [Order 689, § 388-70-116, filed 6/15/72.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-118 Services to unmarried parents—Services available. [Order 689, § 388-70-118, filed 6/15/72.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-120 Medical care. [Regulation 70.120, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-130 Foster homes. [Regulation 70.130, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-140 Interstate movement of children. [Regulation 70.140, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-150 Adoption studies for the superior court. [Regulation 70.150, filed 3/22/60.] Repealed by Order 1167, filed 10/27/76.
- 388-70-175 Veterans' benefits—Types of care. [Order 623, § 388-70-175, filed 10/27/71.] Repealed by Order 825, filed 7/26/73.
- 388-70-180 Foster family care—Standards for payment. [Order 825, § 388-70-180, filed 7/26/73; Order 763, § 388-70-180, filed 1/10/73; Order 654, § 388-70-180, filed 2/9/72; Order 623, § 388-70-180, filed 10/27/71; Order 554, § 388-70-180, filed 4/1/71; Order 418, § 388-70-180, filed 12/31/69; Regulation 70.180, filed 7/27/67; Regulation 70.180, filed 2/23/67, 12/28/66, 10/13/66, 3/31/66, 6/24/64, 9/26/63, 6/30/60, 3/22/60.] Repealed by Order 913, filed 3/1/74.
- 388-70-183 Payment standards for regular foster family care. [Order 825, § 388-70-183, filed 7/26/73.] Repealed by Order 913, filed 3/1/74.
- 388-70-185 Payment standards for receiving home care. [Order 825, § 388-70-185, filed 7/26/73.] Repealed by Order 913, filed 3/1/74.
- 388-70-187 Payment standards for specialized foster family care—Child with special needs. [Order 825, § 388-70-187, filed 7/26/73.] Repealed by Order 913, filed 3/1/74.
- 388-70-190 Payment standards for foster care in boarding school. [Order 825, § 388-70-190, filed 7/26/73 and repealed by Order 913, filed 3/1/74; Order 418, § 388-70-190, filed 12/31/69; Regulation 70.190, filed 7/27/67; Regulation 70.190, filed 3/31/66, 6/24/64, 9/26/63, 6/30/60, 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-200 Payment standards for foster care in boarding school—Payment to foster family receiving public assistance. [Order 623, § 388-70-200, filed 10/27/71; Order 554, § 388-70-200, filed 4/1/71; Order 418, § 388-70-200, filed 12/31/69; Regulation 70.200, filed 9/26/63; Regulation 70.200, filed 3/22/60.] Repealed by Order 913, filed 3/1/74.
- 388-70-201 DSHS—Private child caring agency relationships—Legal basis. [Order 1123, § 388-70-201, filed 6/7/76.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-210 Payment standards for foster care in boarding school—Payment to relative. [Order 623, § 388-70-210, filed 10/27/71; Regulation 70.210, filed 9/26/63; Regulation 70.210, filed 3/22/60.] Repealed by Order 913, filed 3/1/74.
- 388-70-211 DSHS—Private child caring agency relationships—General terms. [Order 1123, § 388-70-211, filed 6/7/76.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-216 Contractual relationships. [Order 1123, § 388-70-216, filed 6/7/76.] Repealed by Order 1186, filed 2/3/77.
- 388-70-220 Payment standards for foster care in boarding school—Earnings of foster child. [Order 623, § 388-70-220, filed 10/27/71; Regulation 70.220, filed 6/24/64; Regulation 70.220, filed 9/26/63; Regulation 70.220, filed 3/22/60.] Repealed by Order 913, filed 3/1/74.
- 388-70-221 Responsibilities of private child caring agencies and DSHS for placement and care. [Order 1123, § 388-70-221, filed 6/7/76.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-222 Payment standards for foster care in boarding school—Out-of-state authorization—Payment. [Order 623, § 388-70-222, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
- 388-70-225 Retroactive increase in old-age, survivors, and disability insurance and railroad retirement benefits—1965 amendments—Foster care. [Regulation 70.221, filed 10/1/65.] Repealed by Order 623, filed 10/27/71.
- 388-70-230 Child care agency, institution, or maternity home—Setting rates of payment. [Order 1186, § 388-70-230, filed 2/3/77; Order 1116, § 388-70-230, filed 4/28/76; Order 965, § 388-70-230, filed 8/29/74; Regulation 70.230, filed 12/21/64, effective 2/1/65; Regulation 70.230, filed 6/24/64, 9/26/63, 8/28/62, 6/30/60, 3/22/60.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-235 Required reports—Content—Penalty for late reporting. [Order 1186, § 388-70-235, filed 2/3/77; Order 965, § 388-70-235, filed 8/29/74; Regulation 70.231, filed 12/24/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-240 Computation of per capita expenditures. [Regulation 70.232, filed 12/24/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-245 Nonprofit institution and maternity home—Rate setting—Exclusions. [Order 855, § 388-70-245, filed 9/13/73; Regulation 70.233, filed 12/21/64, effective

- 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-250 Nonprofit agency—Commercial operations. [Regulation 70.234, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-255 Voluntary agency licensed foster family care—Rate setting. [Order 1186, § 388-70-255, filed 2/3/77; Order 1123, § 388-70-255, filed 6/7/76; Order 855, § 388-70-255, filed 9/13/73; Regulation 70.235, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-260 New agency—Rate negotiated. [Regulation 70.236, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-270 Proprietary agency—Rate setting. [Regulation 70.237, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-275 Nonsubmission of reports—Late reporting—Penalties. [Regulation 70.238, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-280 Vouchering payment. [Order 1132, § 388-70-280, filed 7/8/76; Regulation 70.239, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-300 (Appendix A) Informational list of voluntary child care agencies and institutions and agreed rates. [Appendix A, filed 12/21/64, effective 2/1/65.] Repealed by Order 623, filed 10/27/71.
- 388-70-320 Use of resources other than state department of public assistance medical program. [Regulation 70.240, filed 9/26/63.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

**WAC 388-70-010 Foster care—Legal basis.** (1) The department is authorized by RCW 74.13.020 to provide foster care.

(2) Foster care payments are vendor payments of public assistance funds. See WAC 388-22-030(72).

(3) Beginning October 1, 1983, the placement goal for the foster care program is to limit the number of children who remain in care in excess of twenty-four months to no more than thirty-five percent of the foster care population.

[Statutory Authority: 1982 c 118, 82-23-006 (Order 1901), § 388-70-010, filed 11/4/82. Statutory Authority: RCW 74.08.090, 78-09-098 (Order 1335), § 388-70-010, filed 9/1/78; Order 965, § 388-70-010, filed 8/29/74; Order 913, § 388-70-010, filed 3/1/74; Order 623, § 388-70-010, filed 10/27/71; Regulation 70.010, filed 3/22/60.]

**WAC 388-70-012 Foster care—Definitions.** (1) "Foster care" is a 24-hour per day substitute care for the child whose parents cannot or will not provide normal family care for him. Foster care may be provided in either a licensed foster family home or group care facility.

(2) "Foster care" includes

(a) The determination of need for foster care,

(b) Payment for the care of a child in an approved family foster home (see WAC 388-70-022(2)),

(c) The purchase of care from an approved private child placement agency, group home, or maternity home,

(d) The referral of child to a private child caring agency or institution, in order to meet the child's specific needs,

(e) The determination of the needs of the child,

(f) The placement of the child in the type of foster care facility which best meets its needs,

(g) Medical services according to the rules of the department's medical program,

(h) Supervision of the foster care placement. This may be direct supervision through departmental case-work services; or indirect supervision through evaluation of periodic reports as specified in WAC 388-70-235 from private child caring agencies, institutions or maternity homes with whom the department has contractual arrangements.

[Statutory Authority: RCW 74.08.090, 78-09-098 (Order 1335), § 388-70-012, filed 9/1/78; Order 1123, § 388-70-012, filed 6/7/76; Order 913, § 388-70-012, filed 3/1/74.]

**WAC 388-70-013 Authorization for foster care placement.** A child may be placed in foster care only under the following circumstances:

(1) The child has been placed in temporary residential care after having been taken into custody pursuant to chapter 13.32A RCW, Runaway Youth Act. A child shall in no event remain in temporary residential care for more than seventy-two hours from the time of initial contact with the law enforcement officer, except as otherwise provided in this section.

(2) A petition, by child, parent or parents, or the department requesting alternative residential placement for the child has been filed pursuant to RCW 13.32A.120 or 13.32A.140, or approved pursuant to RCW 13.32A.170, or upon a child having been admitted directly by RCW 13.32A.090.

(3) A child has been placed in shelter care as provided in the following:

(a) The child has been taken into custody and placed in shelter care when there is probable cause to believe, pursuant to RCW 26.44.050, that the child is abused or neglected and the child would be injured or could not be taken into custody as provided in RCW 13.34.050.

(b) A petition has been filed with the juvenile court alleging the child is dependent; that the child's health, safety, and welfare will be seriously endangered if not taken into custody and the juvenile court enters an order placing the child in shelter care. See RCW 13.34.050 and 13.34.060.

(c) No child shall be held longer than seventy-two hours, excluding Sundays and holidays, after such child is taken into custody, unless a court order has been entered for continued shelter care.

(d) No child shall be detained for longer than thirty days without a court order, authorizing continued shelter care.

(4) A juvenile court has determined a child is dependent and the court's order of disposition issued pursuant to RCW 13.34.130 removes the child from his or her home.

(5) A juvenile court has terminated the parent and child relationship pursuant to chapter 13.34 RCW and

placed the custody of the child with the department or a licensed child placing agency.

(6) The child and his or her parent or parents agree to the arrangement and/or continuation of alternative residential placement pursuant to RCW 74.13.031, as evidenced by a written consent to placement subject to limitations in subsection (8) of this section.

(7) If a child is to be placed in group care, such placement shall only be made when the department has assessed the child's and family's needs and determined group care is the most appropriate placement option.

(a) The department will only provide financial support for a child's group care placement when the placement is in a licensed group care facility, and

(b) The department has custody of the child and the authority to remove the child in a cooperative manner after at least seventy-two hours notice to the child care provider; such notice may be waived in emergency situations.

(8) The child's parent or parents or legal guardian or guardians has voluntarily requested, on forms prescribed by the department, the placement of the child by the department or a licensed child placement agency into foster care and the department concurs such placement is currently necessary, provided that the maximum time period for the voluntary placement shall be three months. The placement may be extended if an exception to policy is approved per WAC 388-20-010. Such requests shall comply with foster care placement criteria as developed by the department.

[Statutory Authority: RCW 74.08.090. 86-04-030 (Order 2337), § 388-70-013, filed 1/29/86. Statutory Authority: RCW 74.12.340. 82-16-064 (Order 1849), § 388-70-013, filed 7/30/82. Statutory Authority: RCW 74.08.090. 82-06-001 (Order 1764), § 388-70-013, filed 2/18/82. Statutory Authority: RCW 74.13.109 and 74.08.090. 81-18-031 (Order 1686), § 388-70-013, filed 8/27/81. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-70-013, filed 9/10/79. Statutory Authority: RCW 74.08.090. 78-09-098 (Order 1335), § 388-70-013, filed 9/1/78; Order 1186, § 388-70-013, filed 2/3/77; Order 1123, § 388-70-013, filed 6/7/76.]

**WAC 388-70-022 Payment of foster care.** (1) Payment is made for foster care upon:

(a) Documentation of the need for the type and level foster care as determined by the department and

(b) Documentation of authority for the placement of a child in foster care as required by WAC 388-70-013 and

(c) Receipt of a request for payment of the care to be provided.

(2) All persons and agencies to whom the department makes payment must be appropriately licensed and approved, or, if not subject to licensing, be certified or otherwise approved as meeting licensing or other appropriate requirements of the department.

(3) Payment is made for out-of-state foster care placements only after approval from the two state offices involved.

(4) Authorization of payment is the responsibility of social services. The determination of the amount of parental support, except when stated in a superior court order, is the responsibility of the office of support enforcement.

(5) Foster care payments may be made to persons granted guardianship according to section 51, chapter 155, Laws of 1979.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-70-022, filed 9/10/79. Statutory Authority: RCW 74.08.090. 79-04-062 (Order 1384), § 388-70-022, filed 3/28/79; 78-09-098 (Order 1335), § 388-70-022, filed 9/1/78; Order 1260, § 388-70-022, filed 12/29/77, effective 2/1/78; Order 1123, § 388-70-022, filed 6/7/76; Order 913, § 388-70-022, filed 3/1/74.]

**WAC 388-70-024 Payment of foster care--Effective date.** (1) A foster care payment is effective the date a child is placed in care if an application for foster care payment is received within seven working days of placement. If an application is not received within seven working days of placement, the effective date of care is the date the application is received.

(2) The effective date of termination of family foster care payments for children in family foster care is the date:

(a) The child no longer needs foster care.

(b) The child reaches the age of eighteen. If the child is attending but has not finished high school or equivalent at the age of eighteen and has a need for continued family foster care services, payments may be continued until the date the high school program or equivalent is completed. Such payments shall not be extended beyond age twenty-one.

(3) Payment for group foster care is limited to children who are at least six years of age but under the age of eighteen. The effective date of termination of foster care payments for children in group foster care is the date:

(a) The child no longer needs group foster care.

(b) The child has been in group care eighteen consecutive months.

(c) The child reaches the age of eighteen. If the child is attending but has not finished high school or equivalent at the age of eighteen and has a need for continued group care services, payments may be continued until the date the high school program or equivalent is completed or the child has spent eighteen consecutive months in group care, whichever comes first.

[Statutory Authority: RCW 74.12.340. 82-16-064 (Order 1849), § 388-70-024, filed 7/30/82. Statutory Authority: RCW 74.08.090. 82-04-070 (Order 1753), § 388-70-024, filed 2/3/82; 78-09-098 (Order 1335), § 388-70-024, filed 9/1/78; Order 1123, § 388-70-024, filed 6/7/76; Order 1040, § 388-70-024, filed 8/7/75; Order 1020, § 388-70-024, filed 4/29/75; Order 913, § 388-70-024, filed 3/1/74.]

**WAC 388-70-041 Payment standards--Foster family care.** (1) The standards of payment in WAC 388-70-042 through 388-70-048 for foster family care for children eligible for departmental support apply equally to foster family homes under the direct supervision of the department and those under the supervision of voluntary child care agencies.

(2) The payment plan for all types of foster family care shall be determined through the study of the needs and resources of each child. The plan must, in all cases, be discussed with the foster parent so that he knows the basis for payment and the amount included for each

item. The case record must also contain an explicit statement of the financial arrangement.

[Order 913, § 388-70-041, filed 3/1/74.]

**WAC 388-70-042 Payment standards--Regular foster family care.** 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-four dollars and thirty-five cents per month for a child less than six years of age, one hundred seventy-four dollars and fifty-three cents per month for children six through eleven years of age, and two hundred nine dollars and sixty-eight 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 twenty-eight dollars and sixty-five cents per month for personal incidentals including school supplies for children less than age six; thirty-one dollars and seventeen cents for children age six through eleven years; and thirty-three dollars and forty-five cents for a child twelve and over. A monthly clothing allowance of twenty-one dollars is paid for children under twelve years, while twenty-four dollars and ninety-five 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. 86-04-030 (Order 2337), § 388-70-042, filed 1/29/86; 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.

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(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-three dollars and thirty-two cents per month for each bed available for the emergency placement of children. In addition, the daily rate for receiving home care shall be twelve dollars and twenty cents per day per child.

(b) Specialized receiving homes shall be paid sixty-seven dollars and seventeen 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 sixteen dollars and sixty-six 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 twelve dollars and twenty 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, 86-04-030 (Order 2337), § 388-70-044, filed 1/29/86; 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 388-70-048 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 behavioral /emotional problems   | \$ 140.63<br>per month |
| (2) Intellectually/physically handicapped children | \$ 140.63<br>per month |

[Statutory Authority: RCW 74.08.090, 86-04-030 (Order 2337), § 388-70-048, filed 1/29/86; 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 388-70-051 Education related foster care.** (1) Licensed foster care will be provided for a handicapped child away from his home when requested by a school district and in concurrence with the wishes of the parents.

(2) Payment will be made by the school district when the only need for foster care arises from the need for an education. The department may pay the cost of foster care if the primary reason for placement in foster care is not educational.

[Statutory Authority: RCW 74.08.090, 78-09-098 (Order 1335), § 388-70-051, filed 9/1/78; Order 924, § 388-70-051, filed 4/15/74.]

**WAC 388-70-054 Temporary absence of child from foster care.** (1) When a child is temporarily absent from a foster care facility, the actual number of days absent will be paid by the department, provided:

(a) The number of consecutive days of absence does not exceed fifteen within a thirty-day period;

(b) Written notification is provided to the responsible 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 388-70-062 Payment for foster care to family receiving public assistance.** When a child is placed in foster care with a family receiving public assistance, the payments to the foster family for the child's board, clothing, and personal incidentals shall not be considered a resource to the family.

[Order 913, § 388-70-062, filed 3/1/74.]

**WAC 388-70-064 Payment for foster care to relative.** (1) State foster care funds shall not be expended for a child living with a relative eligible to receive AFDC on behalf of the child unless the relative has been appointed guardian for a child pursuant to RCW 13.34.231 and the relative was receiving AFDC-FC (IV-E) on behalf of the child prior to the establishment of the guardianship.

(2) Natural parents, adoptive parents, and stepparents are not eligible to receive foster care payments.

(3) Relatives providing care to children potentially eligible for both AFDC and AFDC-FC (IV-E) must be given the choice of applying for either program.

(4) Homes of relatives eligible to receive AFDC grants need not be licensed; those paid from foster care funds must be licensed or certified as meeting licensing requirements per WAC 388-73-020.

(5) Other than a child's parents, persons not subject to licensing are grandparents, brothers, sisters, stepbrothers, stepsisters, uncles, aunts and first cousins.

[Statutory Authority: RCW 74.08.090. 82-24-068 (Order 1915), § 388-70-064, filed 12/1/82; 80-06-069 (Order 1504), § 388-70-064, filed 5/22/80; Order 913, § 388-70-064, filed 3/1/74.]

**WAC 388-70-066 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.]

**WAC 388-70-068 Earnings of foster child.** An older child in foster care may be wholly or partially able to meet the cost of his maintenance. Exempt earned income standards which apply to AFDC also apply in foster care. See WAC 388-28-535(3).

[Statutory Authority: RCW 74.08.090. 83-04-061 (Order 1943), § 388-70-068, filed 2/2/83; Order 913, § 388-70-068, filed 3/1/74.]

**WAC 388-70-069 Resources and unearned income of foster child.** (1) If a child in foster care is entitled to financial benefits the income received shall be used on behalf of the child to help pay for the cost of the foster care received, except for resources held in trust for an American Indian child according to provisions in WAC 388-28-650.

(a) Income includes SSI, RSDI, veteran's benefits, railroad retirement benefits, inheritances, or any other payments for which the child is eligible, unless specifically exempted by the terms and conditions of the receipt of the income.

(b) Receipt of other income as described above shall not relieve the child's responsible parent(s) of the liability for payment of child support in accordance with WAC 388-70-075 through 388-70-084.

(2) Any person, agency, or court which receives any payments on behalf of a child in foster care shall remit such payments to the office of support enforcement, in accordance with WAC 388-70-082.

(3) Resources in the control of a child in foster care shall be treated in accordance with WAC 388-28-400 through 388-28-455.

[Statutory Authority: RCW 74.08.090. 83-04-061 (Order 1943), § 388-70-069, filed 2/2/83; Order 1123, § 388-70-069, filed 6/7/76.]

**WAC 388-70-075 Parents' obligation to support child in foster care.** (1) Parents of children in foster care paid by the department satisfy their legal obligation to support their children when there is a superior court order for support by paying the amounts specified in the order or in the absence of a superior court order, by

paying the amount determined under RCW 74.20A.055 and regulations promulgated in chapter 388-11 WAC.

(2) The provision for a written agreement between the department and the responsible parent(s) for payment of support for a child placed in foster care provided for in RCW 74.20A.030 shall not be utilized. In lieu thereof, in the absence of a superior court order requiring support from a parent of a child receiving foster care, the regulations promulgated in chapter 388-11 WAC shall provide the exclusive constitutional remedies to assert debts claimed under RCW 74.20.292, 74.20A.030 and/or 74.20A.250 and/or 26.16.205.

(3) The office of support enforcement is responsible on behalf of the department of social and health services to take action under the provisions of chapter 74.20A RCW and chapter 388-11 WAC to enforce support obligations as to children in foster care paid for by the department.

[Order 1123, § 388-70-075, filed 6/7/76; Order 918, § 388-70-075, filed 3/14/74; Order 623, § 388-70-075, filed 10/27/71.]

**WAC 388-70-078 Standards for parental participation in cost of foster care—Minimum scale recommended to court.** Recommendations to the superior court, specifically including the juvenile court, to establish, raise, lower, release or forgive support payments for a child placed in foster care may be made only by staff of the office of support enforcement and will be made only in accordance with the provisions of WAC 388-11-190. No department or private child care staff other than the staff of the office of support enforcement may make statements to or agreements with parent(s) or their representatives as to support enforcement matters affecting an amount of support debt.

[Order 1123, § 388-70-078, filed 6/7/76; Order 918, § 388-70-078, filed 3/14/74.]

**WAC 388-70-080 Referral of child in foster care to department's office of support enforcement.** A referral by the CSO to the respective district office of support enforcement serving that region is to be made for every foster care placement in which the department participates in payment for care, except for classes of cases, if any, in which the office of support enforcement has determined it would not be cost effective to pursue collection, or classes of cases exempt by law from collection action.

[Statutory Authority: RCW 74.08.090. 83-17-003 (Order 1992), § 388-70-080, filed 8/5/83; Order 1123, § 388-70-080, filed 6/7/76; Order 1048, § 388-70-080, filed 8/29/75; Order 1016, § 388-70-080, filed 4/1/75; Order 918, § 388-70-080, filed 3/14/74.]

**WAC 388-70-082 Parents' foster care payments to be remitted to department.** All payments for the benefit and/or costs of care of children receiving foster care paid for by the department shall be paid to the department's office of support enforcement, unless there is a court order directing payment through a clerk of the court. Payments, pursuant to a court order, paid through a clerk of the court shall be sent to the office of support enforcement pursuant to RCW 74.20.101.



[Order 1123, § 388-70-082, filed 6/7/76; Order 918, § 388-70-082, filed 3/14/74.]

**WAC 388-70-084 Assignment of child support judgment and limited power of attorney.** When there is a superior court order providing for payment of support from a parent to the person or agency having custody, the department shall advise the person or agency having custody that such judgment representing support for the child in, or to be placed in, foster care is, by law (RCW 74.20A.030 and 74.20A.250), deemed in favor of the department as long as the child receives assistance. The person or agency having custody shall acknowledge this subrogated right to the department by execution of an assignment of judgment and limited power of attorney, which shall remain in effect as long as such child receives foster care assistance.

[Order 1123, § 388-70-084, filed 6/7/76; Order 918, § 388-70-084, filed 3/14/74.]

**WAC 388-70-091 Foster care planning for Indian children--Definitions.** For the purposes of these rules, the term "Indian" includes the following groups:

- (1) An enrolled Indian:
  - (a) Any person who is enrolled or eligible for enrollment in a recognized tribe.
  - (b) Any person determined, or eligible to be found, to be an Indian by the Secretary of the Interior.
  - (c) An Eskimo, Aleut or other Alaskan native.
- (2) A Canadian Indian: Any person who is a member of a treaty tribe, Metis community or nonstatus Indian community from Canada.
- (3) An unenrolled Indian: A person considered to be an Indian by a federally or nonfederally recognized Indian tribe or urban Indian/Alaskan native community organization.

[Order 1167, § 388-70-091, filed 10/27/76.]

**WAC 388-70-092 Foster care for Indian children--Tribal sovereignty.** Neither the licensing of Indian foster homes nor the placement and supervision of Indian children within the exterior boundaries of an Indian reservation, shall in any way abridge the sovereignty of an Indian nation or tribe nor shall compliance with these rules and regulations be deemed a relinquishment of sovereign authority by an Indian nation or tribe or by the state of Washington.

[Order 1167, § 388-70-092, filed 10/27/76.]

**WAC 388-70-093 Foster care for Indian children--Services.** Documented efforts shall be made to avoid separating the Indian child from his parents, relatives, tribe or cultural heritage. Consequently:

- (1) In the case of Indian children being placed in foster care by the department or for whom the department has supervisory responsibility, the local Indian child welfare advisory committee, predesignated by a tribal council, or appropriate urban Indian organization shall be contacted. Members of that committee will serve as resource persons for the purposes of cooperative planning and aid in placement.

[Title 388 WAC—p 256]

- (2) The resources of the tribal government, department and the Indian community shall be used to locate the child's parents and relatives to assist in locating possible placement resources, and to assist in the development of a plan to overcome the problem that brought the child to the attention of the authorities and/or the department.

- (3) In planning foster care placements for Indian children, demonstrable consideration shall be given to tribal membership, tribal culture and Indian religions. The case record shall document the reasons and circumstances of casework decisions and consideration in those regards.

- (4) The following resources for foster home placement of Indian children will be explored and followed in the following order: Relatives' homes, homes of other Indian families of same tribe, other Indian foster parents and non-Indian foster homes specifically recruited and trained in cooperation with the local Indian child welfare advisory committee to meet the special needs of Indian foster children and in the geographic proximity that will insure continuation of the parent-child relationship. The training of non-Indian foster parents shall be designed and delivered in cooperation with the above committee and/or persons designated by the committee.

- (5) For each Indian child who will be in care for more than 30 days, including those for whom adoption is planned, the ESSO shall make documented effort to complete two copies of the "family ancestry chart" (except in those cases where parents specifically indicate in writing they do not want the child enrolled). One copy will be retained in the child's file; the other will be forwarded to the bureau of Indian affairs office or the department of Indian affairs agency in Canada serving that child's tribe or band. The BIA of the department of Indian affairs agency will review the chart for possible enrollment eligibility in conjunction with the enrollment committee of the appropriate tribe or urban Indian community.

- (6) The ESSO shall develop its social resources and staff training programs designed to meet the special needs of Indian children through coordination with tribal, Indian health service, bureau of Indian affairs social service staff, appropriate urban Indian and Alaskan native consultants, national, state and local Indian welfare organizations and ESSO child welfare advisory committees.

- (7) The ESSO shall make diligent and demonstrable efforts to recruit facilities and/or homes particularly capable of meeting the special needs of Indian children with the assistance of the local Indian child welfare advisory committees.

[Order 1167, § 388-70-093, filed 10/27/76.]

**WAC 388-70-095 Foster care for Indian children--Serious injury, death, abandonment, child abuse, neglect, incarceration.** When an Indian child in foster care dies, is seriously injured, abandoned or incarcerated, in addition to other appropriate notifications, the department shall promptly advise the ESSO Indian child welfare advisory committee and appropriate tribal council.

WAC 388-15-131(4) provides for notification about child abuse/neglect incidents.

[Order 1255, § 388-70-095, filed 12/1/77; Order 1167, § 388-70-095, filed 10/27/76.]

**WAC 388-70-160 Guardianship of estate of child.**

(1) The department accepts guardianship of the estate of a child when:

(a) The child has been separated from his family and the person who would normally act as his guardian is unable to do so,

(b) The child subject to court order and custody or supervision is placed with the local office,

(c) The estate is insufficient to maintain the child during his minority,

(d) The estate is in the form of cash or negotiable bonds.

(2) The secretary of the department acts as payee of RSI benefits on behalf of the child. When the secretary or his designee signs a certificate of guardianship, the department agrees with the bureau of RSI:

(a) To apply all benefits received for the child to his use and benefit

(b) That the child's insurance benefit will not be claimed:

(i) For any period in which the earnings of the child or individual, upon whose earnings the child's benefit is based, are in excess of the legal limitations established by the Social Security Act, or

(ii) If the child dies, or

(iii) If the child is adopted by a person other than the child's stepparent, grandparent, uncle, or aunt, or

(iv) If the child marries, or

(v) After the child attains age 18.

(c) To notify the bureau of RSI promptly when any of the above events occur.

(3) The local office acting as agent of the secretary shall give the same supervision and services as those available to other children under its care.

[Statutory Authority: RCW 74.08.090, 78-09-098 (Order 1335), § 388-70-160, filed 9/1/78; Order 965, § 388-70-160, filed 8/29/74; Order 913, § 388-70-160, filed 3/1/74; Regulation 70.160, filed 3/22/60.]

**WAC 388-70-170 Veterans' benefits.** By agreement with the regional office of the veterans' administration, the secretary of the department may receive benefits on behalf of children who have been placed by court order under the supervision or custody of the local office.

[Order 913, § 388-70-170, filed 3/1/74; Regulation 70.170, filed 3/22/60.]

**WAC 388-70-410 Adoption services for children--Legal basis--Purpose.** (1) RCW 74.13.020 defines "child welfare services" as "public social services including adoption services which strengthen, supplement or substitute for parental care and supervision."

(2) The purpose of the department's adoption program is to meet the needs of children who are in the department's care and custody.

[Order 1167, § 388-70-410, filed 10/27/76.]

(1986 Ed.)

**WAC 388-70-420 Definitions.** (1) Adoption: Adoption is a legal and social process provided for by law to establish the legal relationship of child and parent when they were not so related by birth.

(2) Department placements: Families applying for placements through the adoption exchanges in which the department participates.

(3) Independent placements: Families anticipating placement by a doctor or attorney and applying for pre-placement or next friend reports.

(4) Intercountry placements: The child for adoptive placement is not a resident and/or citizen of the United States.

(5) Department: Means the department of social and health services including any division, office or unit thereof.

[Order 1167, § 388-70-420, filed 10/27/76.]

**WAC 388-70-430 Eligibility for adoption service.**

(1) Children: Adoption services may be provided any child supervised by the department in foster care or at the request of their parents prior to foster care placement.

(2) Families: Families applying for the adoption services provided by the department are resources for children and not subject to service eligibility requirements.

[Order 1167, § 388-70-430, filed 10/27/76.]

**WAC 388-70-440 Adoption services for children.**

(1) Adoption services for children include:

(a) Casework with parents focused on a permanent home for their child/ren;

(b) Casework with children;

(c) Petitioning the court for termination of parental rights;

(d) Determination of children's medical and social needs;

(e) Psychiatric and psychological evaluations as well as any needed medical evaluations are provided;

(f) Adoptive family home studies (preplacement reports);

(g) Evaluation of adoption resources;

(h) Adoption placements which best meet the child/ren's needs;

(i) Counseling and/or referral of families and children after placement;

(j) Next friend reports for the court.

(2) The social planning for a child in the department's permanent custody shall be continuously reviewed by its economic and social service, regional and state offices to assure that the child is moved as rapidly as possible into adoptive status.

(3) The planning for children continuing in foster care under the department's supervision shall be reviewed every six months to determine their need for adoption services.

(4) Exploration of adoptive resources for a child will be relatives, current foster parents, and registered approved families.

[Order 1167, § 388-70-440, filed 10/27/76.]

[Title 388 WAC--p 257]

**WAC 388-70-450 Adoptive planning for Indian children by department staff.** (1) Definitions: For the purposes of these rules the term "Indian" includes the following groups:

(a) Enrolled Indian

(i) Any person who is enrolled or eligible for enrollment in a recognized tribe.

(ii) Any person determined, or eligible to be found, to be an Indian by the secretary of the interior.

(iii) An Eskimo, Aleut or other Alaskan native.

(b) Canadian Indian: A person who is a member of a treaty tribe, Metis community or nonstatus Indian community from Canada.

(c) Unenrolled Indian: A person considered to be an Indian by a federally or nonfederally recognized tribe or urban Indian/Alaskan native community organization.

(2) An adoptive family shall be considered Indian if one or both parents are Indian by the above definitions.

(3) In adoptive planning for Indian children, the unique tribal, cultural and religious sovereignty of Indian nations, tribes and communities shall be recognized. When consistent with the wishes of the biological parents and/or the child, the adoption of Indian children by Indian families is the primary goal.

(4) Standards implementing the policy are:

(a) Adoption exchange. In the referrals for an Indian child, adoptive homes having the following characteristics shall be given preference in the following order, each category being allowed 30 days before proceeding to the next.

(i) An Indian family of the same tribe as the child.

(ii) A Washington Indian family considering tribal cultural differences.

(iii) An Indian family from elsewhere in the United States or Canada through the adoption resource exchange of North America. Attention shall be given to matching the child's tribal culture to that of the adoptive family.

(iv) Any other family which can provide a suitable home to an Indian child, as well as instill pride and understanding in the child's tribal and cultural heritage.

(b) Foster parent adoptions: As a part of the total evaluation for approving a foster parent adoption of an Indian child, ESSO service staff shall document the foster family's past performance and future commitment in exposing the child to its Indian tribal and cultural heritage. The child's wish to be involved in his Indian culture shall be considered.

(c) When an Indian child, in the custody of an out of state agency, is referred for potential adoptive parents residing in Washington, documentation shall be obtained that assures the department's standards for planning for Indian children have been complied with.

(5) Local staff shall consult with an Indian child welfare committee in planning for placement of Indian children.

[Order 1167, § 388-70-450, filed 10/27/76.]

**WAC 388-70-460 Adoption services for families.**

(1) Department placements:

[Title 388 WAC—p 258]

(a) Applications are accepted from families residing in the state of Washington based upon the anticipated children needing placement;

(b) Upon acceptance of an application, a home study shall be initiated by the ESSO staff and one of the following decisions reached;

(i) Application to adopt is withdrawn by family;

(ii) Application to adopt is denied;

(iii) Family is approved for adoptive placement and registered at the central office exchange.

(c) A family shall be removed from the central office exchange registry for any of the following reasons:

(i) A child has been placed with the family;

(ii) The family decides to receive adoption services from any other agency or through an independent placement;

(iii) The wife is pregnant;

(iv) The family and/or caseworker decide that adoption is no longer an appropriate plan;

(v) The family physically leaves the state.

(d) A family removed from the central office exchange registry may reapply for adoption services; their situation at the time of reapplication shall be evaluated;

(e) Families will be informed in writing of action taken according to the rules of this section and of their right to have a fair hearing only on action taken on their application for services or removal from the central registry.

(2) Independent placements

(a) ESSO staff may respond to Washington families' requests for preplacement studies and next friend reports depending on staff time and other community resources available.

(b) An office not providing service on independent placements shall inform the superior court in its area of the available community resource that is available for preplacement and next friend reports.

(c) When an ESSO employee is appointed next friend and the required preplacement report has not been filed in accordance with RCW 26.32.200 through 26.32.270, the situation shall be brought to the attention of the attorney general.

(3) Intercountry placements:

(a) Families will apply to the international child placing agency of their choice.

(b) Upon the written request to the central office by the family's chosen agency, the department may provide the cooperative services. The child's agency must agree to continue its financial and social responsibility for the anticipated child until the decree of adoption is final.

(c) A request for preplacement study for an independent inter-country adoptive placement shall be denied.

[Order 1167, § 388-70-460, filed 10/27/76.]

**WAC 388-70-470 Interstate procedures.** (1) The state of Washington is a member of the Interstate Compact on the Placement of Children (chapter 26.34 RCW).

(2) No child for whom the department has responsibility for adoptive planning shall be sent from the state

without prior approval of the compact administrators of the state of Washington and the receiving state.

(3) ESSO staff shall not provide supervisory services on an interstate adoptive placement unless the interstate compact forms or their equivalent have been signed by the compact administrators of the two states.

[Order 1167, § 388-70-470, filed 10/27/76.]

**WAC 388-70-480 Record confidentiality.** (1) All records and information obtained by the department in providing adoption services are confidential as specified in RCW 26.36.010, 26.36.020, 26.36.030, and 26.36.050.

(2) Upon the issuance of the decree of adoption, a child's record is sent to the central office for archiving.

(3) Information from an archived record required for the medical and/or emotional treatment of an adopted child may be obtained from the central office adoption specialist, under the authority of RCW 26.36.050. The request for information will be made by the professional treating the child and include the adoptive parents' written authorization to release the information.

[Order 1167, § 388-70-480, filed 10/27/76.]

**WAC 388-70-510 Adoption support for children--Legal basis--Purpose.** (1) The legal basis for the adoption support program is RCW 74.13.100 through 74.13.145 and P.L. 96-272.

(2) The purpose of the program is to encourage the adoption of hard-to-place children, that is, the child who would have to live out his or her childhood without the security and stability of a permanent adoptive home if support payments were not made. The program includes children cared for by both public and voluntary child care agencies. Interpretation of the statute and the philosophy of the adoption support program shall emphasize a flexible approach to subsidized adoption, focusing on the welfare of the child; rules shall not be adversely applied to the child's welfare.

[Statutory Authority: RCW 43.20A.550, 82-02-023 (Order 1744), § 388-70-510, filed 12/30/81; Order 1037, § 388-70-510, filed 7/29/75.]

**WAC 388-70-520 Adoption support for children--Definitions.** As used in these rules

(1) "Adoption" shall mean the granting of the adoption decree consistent with the provisions of chapter 26.32 RCW.

(2) "Adoption support payment" shall mean the financial remuneration resulting from an agreement whereby the department continues some financial responsibility beyond the legal consummation of the adoption.

(3) "Agreement" shall mean a contract between the prospective adoptive parent(s) and the department to provide adoption support payments following the granting of a decree of adoption.

(4) "Corrective-rehabilitative services" shall include but not be limited to: Medical care, psychological services, physical therapy, prosthesis, speech and hearing therapy, cosmetic surgery or orthodontia.

(5) "Department" shall mean the department of social and health services.

(6) "Family" shall mean any prospective parent(s) having the character, judgment, sense of responsibility and disposition which makes him or her suitable as an adoptive parent of such child, and lacks the financial means fully to care for such hard-to-place child.

(7) "Secretary" shall mean the secretary of department or his designee.

(8) "The act" means the statutes authorizing adoption support codified as RCW 74.13.100 through 74.13.145.

[Order 1037, § 388-70-520, filed 7/29/75.]

**WAC 388-70-530 Adoption support for children--Eligible child.** (1) A child to be considered for adoption support must be registered with the office given administrative authority for the program:

(2) A child meeting the eligibility criteria for registration is one who:

(a) Was or is residing in a foster home or a child caring institution or a child who in the judgment of the secretary, is both eligible for, and likely to be placed in, either a foster home or a child caring institution.

(b) Is legally free for adoption, and

(c) Is under eighteen years of age at the time the contract is signed, and

(d) Adoption is the most appropriate plan, and

(e) Is hard-to-place for adoption.

(3) The child must have been registered for three months with the DSHS adoption exchange or the Washington Adoption Resource Exchange (WARE) in addition to the Northwest Adoption Exchange NWAEE in order to demonstrate that a nonsubsidized resource is not available if the plan is regular agency adoption.

(4) The child must be found to be difficult to place in adoption because of, but not limited to, one or more of the following:

(a) Physical or mental handicap,

(b) Emotional disturbance,

(c) Ethnic background, including race, color or language,

(d) Age,

(e) Sibling grouping.

(5) Registration with the exchanges shall not be necessary when foster parents desire to adopt a child who has been in the foster parent's home for at least six months prior to application to the department. In cases of adoption by foster parents, the following criteria must be met:

(a) The child must be hard-to-place by virtue of eligibility as defined in subsection (4)(a) through (e) of this section; and

(b) The child must have close emotional ties to the current foster family which, if severed, could cause emotional damage to the child; and

(c) The foster family must have been identified as the adoptive family of choice by the agency staff having responsibility for the child.

[Statutory Authority: RCW 43.20A.550, 82-02-023 (Order 1744), § 388-70-530, filed 12/30/81; Order 1037, § 388-70-530, filed 7/29/75.]

**WAC 388-70-540 Adoption support for children-- Application.** (1) The prospective adoptive family shall apply to the department for adoption support for the child.

(2) The application will be jointly completed by the prospective adoptive parents and their referring agency or the department's local office. The type and amount of support payment requested shall be mutually determined by the family and the caseworker according to the criteria in WAC 388-70-560. A copy of the family's most recent federal income tax return, internal revenue service form 1040, must accompany the application for adoption support. If the family is not required to file a federal income tax return, they must submit such financial statement as is required by the department.

[Order 1037, § 388-70-540, filed 7/29/75.]

**WAC 388-70-550 Adoption support for children-- Types and amounts of payments.** (1) The three types of support payments are monthly maintenance, attorney fees and/or court costs, medical (corrective-rehabilitative) service, or any combination of these.

(2) The payment for monthly maintenance shall not exceed the monthly cost standards for foster care established by the department for the department's foster homes. The payment includes regular foster care or specialized foster care, where indicated, and clothing and personal incidentals. (See WAC 388-70-042 and 388-70-048.)

(3) If the department determines that the prospective adoptive parent(s) cannot, because of limited financial means, pay the cost or the full cost of legal proceedings for the adoption of a hard-to-place child eligible for support under the act and these regulations, the secretary may authorize departmental participation in adoption legal fees as determined by the superior court at the adoption hearing up to two hundred dollars plus court costs for each child or family unit, unless a different arrangement has been made by the department with the family and the family's attorney.

In cases in which the attorney indicates that the fee shall be in excess of two hundred dollars plus costs, a request for departmental participation in that fee must be made to the adoption support program at least three weeks prior to the finalization of the adoption. In any case, the attorney for the adoptive parent(s) shall furnish the department with a certified copy of the decree of adoption containing the finding as to the attorney's fee and an itemized statement of all other costs of the adoption proceedings.

(4) The medical needs of a child in the adoption support program shall be met from the department's medical services program.

(a) Payment of the costs of medical services shall be made directly to the physician or provider of the services according to the department's established procedures.

(b) Prior to entering an agreement for medical services, the medical needs of a particular child must be reviewed and approved by the department's office of personal health services. Following review and approval, all medical services requested by the adopting parents

shall be coordinated through the adoption support program and furnished according to the department's medical programs when there is no other resource available during the effective period of the family's agreement with the department.

(c) Requests for orthodontics, psychiatric care, physical therapy, and appliances require special procedures; these requests shall be submitted to the department and the department's approval obtained before the service is rendered.

(5) Adoption support payments shall continue pursuant to the following conditions:

(a) The child has not yet reached the age of eighteen, or the age of twenty-one if the following apply:

(i) The child has not yet completed high school or high school equivalent and is a full-time student; and/or

(ii) The child is physically or mentally handicapped such that continued assistance is warranted and no other assistance is available;

(b) The child continues to be the legal responsibility of the adoptive family;

(c) The child continues to receive support from the adoptive family.

[Statutory Authority: RCW 43.20A.550. 82-02-023 (Order 1744), § 388-70-550, filed 12/30/81. Statutory Authority: RCW 74.13.109. 80-08-028 (Order 1516), § 388-70-550, filed 6/25/80; Order 1037, § 388-70-550, filed 7/29/75.]

**WAC 388-70-560 Adoption support for children-- Criteria governing amount of payment.** (1) The factors considered by the department in setting the amount of any payment(s) shall include the size of the family including the adoptive child, the usual living expenses of the family, the special needs of any family member including his educational needs, the family income, the family resources and plan for savings, the medical care and hospitalization needed by the family and the family's means of purchasing or otherwise obtaining the care, and any other expense likely to be needed by the child to be adopted.

(2) The specific amount of support to be requested in the application shall be based on an individual social determination arrived at between the family and their caseworker. The decision as to the amount of a monthly support payment shall be based on a realistic evaluation of the child's need to live in the particular family and the cost of the living expenses of the individual family. Due to changes in the family's economic circumstances or the needs of the child, support payments may be modified or discontinued and later resumed. The monthly maintenance may increase as a child reaches different foster care age payment categories, but this must be requested by the adoptive family.

[Order 1037, § 388-70-560, filed 7/29/75.]

**WAC 388-70-570 Adoption support for children-- Agreement for adoption support.** An agreement shall constitute a binding contract between the department and the prospective adoptive family to provide adoption support for a child after adoption. The agreement shall be completed in accordance with RCW 74.13.124, and

P.L. 96-272 Sec. 475(2), and shall, at minimum, include the following:

(1) The amount of adoption support payments and any additional assistance which is to be provided as a part of the agreement including, where appropriate, indication of eligibility for Title XIX and Title XX services.

(2) A stipulation that the agreement shall remain in effect regardless of the state of residence of the adoptive family:

(a) In case of a move outside of the state of Washington, for eligible children, Title XIX services shall remain the responsibility of the state of Washington.

(b) In case of a move outside of the state of Washington, for eligible children, Title XX services shall become the responsibility of the new state of residence.

(3) A stipulation that the agreement must be renewed each year, with termination from the program resulting from the adoptive parents' failure to renew.

[Statutory Authority: RCW 43.20A.550, 82-02-023 (Order 1744), § 388-70-570, filed 12/30/81; Order 1037, § 388-70-570, filed 7/29/75.]

**WAC 388-70-580 Adoption support for children--Review of support payment.** (1) Each agreement under the act and these regulations shall be reviewed annually when any parent(s) receives more than one lump sum payment. At the time of such annual review and at other times during the year when changed conditions (including variations in medical opinions, prognosis and costs) are deemed by the secretary to warrant such action, appropriate adjustments in the payments shall be made based upon changes in the needs of the child or in the adoptive parent's income, resources or expenses. Any modification in the support payment shall result in a new agreement signed by the parents, the program coordinator and secretary of the department.

(2) Any parent who is a party to an agreement may request in writing at any time, a review of the amount of any payment or level of continuing payments as provided in RCW 74.13.118. The review shall be initiated not later than thirty days from the receipt of the request.

(3) Any adjustment in payment may be retroactive to the date the request was received by the secretary. If the request is not acted on within thirty days after receipt by the secretary, the parent may invoke the right to a fair hearing.

(4) The annual review shall be conducted according to RCW 74.13.118 and 74.13.121.

[Order 1037, § 388-70-580, filed 7/29/75.]

**WAC 388-70-590 Adoption support for children--Appeal from secretary's decision--Hearing.** (1) Adoptive parents may request a hearing to review

(a) A decision by the secretary to increase or decrease the level of payment or payments for the support of an adoptive child without the mutual acceptance of the adoptive parents. Notification of proposed changes in the level of a payment or payments for the support of an

adoptive child shall be made to the adoptive parents in writing by certified mail or personal service and shall state the grounds upon which the secretary proposes such action;

(b) The decision of the secretary made pursuant to a written request by the adoptive parent or parents to adjust the amount of any payment or the level of continuing payments; such hearing may be requested thirty days following the date of receipt of the request by the secretary if the secretary has failed to take action upon such request;

(c) The decision of the secretary as to whether any standard or part of a standard adopted by the secretary after the date of an initial agreement, which standard or part is used by the secretary making any review and adjustment, is more generous than the standard in effect as of the date of the initial determination with respect to such agreement.

(2) A hearing must be requested within thirty days of the receipt of written notice by the adoptive parents of the decision of the secretary sought to be reviewed. A request for a hearing shall be made by certified mail.

(3) All hearings held pursuant to this section shall be conducted in accordance with chapter 388-08 WAC and RCW 74.08.070 except as specifically provided in the act and these regulations. Such hearings and the results thereof shall be confidential and shall not be revealed to any other person, institution or agency, public or private.

(4) Denial of an initial request for support payments and social decisions based on the appropriateness of the individual(s) to adopt a child shall not be subject to any review or hearing.

[Order 1037, § 388-70-590, filed 7/29/75.]

**WAC 388-70-600 Local Indian child welfare advisory committee--Purpose.** The intent of WAC 388-70-096, 388-70-450, and 388-70-600 through 388-70-640 is to ensure protection of the Indian identity of Indian children, their rights as Indian children, and the maximum utilization of available Indian resources for Indian children. To ensure the realization of this intent, information about each current and future case involving Indian children for whom the department of social and health services has a responsibility shall be referred to a local Indian child welfare advisory committee on an ongoing basis according to procedures which recognize the privacy rights of the families.

The purposes of local Indian child welfare advisory committees are:

(1) To promote relevant social service planning for Indian children.

(2) To encourage the preservation of the Indian family, tribe, heritage, and identity of each Indian child served by the department of social and health services.

(3) To assist in obtaining participation by representatives of tribal governments and Indian organizations in departmental planning for Indian children for whom the department has a responsibility.

[Order 1167, § 388-70-600, filed 10/27/76.]

**WAC 388-70-610 Local Indian child welfare advisory committee—Membership.** Local Indian child welfare committees shall be established within each region. The number and locations of the local committees shall be mutually determined by the Indian tribal governments and urban Indian organizations served by that region and the DSHS regional administrator.

(1) The committee shall consist of representatives designated by tribal government and urban Indian organizations. The regional administrator shall appoint committee members from among those individuals designated by Indian authorities. These members should be familiar with and knowledgeable about the needs of children in general as well as the particular needs of Indian children residing in the service area.

(2) The committee may also include bureau of Indian affairs and/or Indian health service staff if approved by participating tribal councils and urban Indian organizations.

(3) The DSHS regional administrator and/or the ESSO administrator shall appoint a member of his child welfare supervisory staff as a liaison member of the committee.

(4) The local Indian child welfare advisory committee is an ad hoc advisory committee not specifically authorized by statute. As such its members are not entitled to per diem and travel expenses for the performance of advisory committee functions. This rule shall not be construed, however, to prohibit expense payments to members who are otherwise qualified for and perform services compensable under other programs such as the volunteer programs.

[Order 1167, § 388-70-610, filed 10/27/76.]

**WAC 388-70-615 Local Indian child welfare advisory committee—Subcommittees.** Each committee may appoint a subcommittee of permanent members to participate in reviewing the situation of an individual child or children for the purpose of recommending future planning actions.

[Order 1167, § 388-70-615, filed 10/27/76.]

**WAC 388-70-620 Local Indian child welfare advisory committee—Functions.** (1) The functions of the local Indian child welfare advisory committee are:

(a) Assistance to DSHS staff in cooperative planning for Indian children.

(b) Consultation to DSHS staff regarding the provision of adoption, foster care and child protective services on behalf of Indian children.

(c) Reviewing the situations of Indian children.

(d) Assisting in the implementation of recommended plans.

(e) Assisting in the recruitment of and making recommendations regarding the licensing of foster and adoptive homes for Indian children and providing culturally relevant services to Indian children.

(f) Requests the ESSO administrator to initiate reviews of casework decisions that the committee believes to be detrimental to the best interests of Indian children.

[Title 388 WAC—p 262]

(g) Acts in an advisory capacity to the regional administrator and ESSO administrator regarding the department's implementation and monitoring of the rules related to foster care, child protection, and adoption services to Indian children and their families.

[Order 1167, § 388-70-620, filed 10/27/76.]

**WAC 388-70-630 Local Indian child welfare advisory committee—Meetings.** Each committee and the regional administrator and/or ESSO administrator will mutually agree as to time, place and frequency and conduct of official committee meetings.

[Order 1167, § 388-70-630, filed 10/27/76.]

**WAC 388-70-640 Local Indian child welfare advisory committee—Confidentiality.** (1) Prior to review or participation in any specific case which will involve access to records protected by confidentiality statutes or rules, the necessary and appropriate consents shall be obtained. Each regional administrator and local Indian child welfare committee shall develop mutually agreeable procedures for describing to the Indian child, parent, guardian or court of jurisdiction the role of the Indian advisory committee in review of their individual situations and for receiving their approval of such review. The emphasis shall be on the development of communications procedures which are positive and relevant to the Indian people.

(2) The members of the local child welfare advisory committee shall agree to abide by RCW 74.04.060 and the rules of confidentiality binding the DSHS staff.

[Order 1167, § 388-70-640, filed 10/27/76.]

**WAC 388-70-700 Juvenile records.** (1) Except as otherwise provided by law the department shall comply with the requirements of RCW 13.04.270 through 13.04.276 as amended by chapter 155, Laws of 1979 regarding the confidentiality, sealing, accuracy, release to public, inquiry and challenge, transfer and destruction of juvenile custody and child care records. This section applies to entries in records or records created after July 1, 1978 in which a juvenile court action other than a juvenile offender has been initiated.

(2) A juvenile, his or her parents or attorney, may upon written request, inquire to the department as to the existence and content of custody or care records. The inquiry shall provide the name of the juvenile, the approximate date the juvenile was in contact with the department, the nature of the contact, the location of the contact, and the purpose of the request.

(3) The department will make written response to the inquiry within twenty-one calendar days after receipt. The department will give priority to, and expedite processing, inquiries which involve pending litigation. The department shall provide to the juvenile, his or her parents or attorney making the inquiry, information regarding the location, nature and content of any records in the department's possession except:

(a) If it is determined by the agency that release of this information is likely to cause severe psychological or

physical harm to the juvenile or his or her parents the agency may withhold the information subject to the order of the court: *Provided*, That if the court determines that limited release of the information is appropriate the court may specify terms and conditions for release of the information; or

(b) If the information or record has been by a juvenile justice or care agency in connection with the provision of counseling, psychological, psychiatric or medical services for the juvenile and the juvenile has a legal right to receive these services without the consent of any person or agency then the information or record may not be disclosed to the juvenile's parents without the informed consent of the juvenile.

(4) A juvenile, his or her parents or attorney, who wishes to challenge the information contained in the department records shall notify the department in writing. The notification shall provide:

(a) The name of the juvenile;

(b) If the records are alleged to be inaccurate; a statement of those portions alleged to be inaccurate; and

(c) If the continued possession of the record is being challenged, a statement as to the reason why the record should be destroyed.

(5) The department will review the notification of challenge to the record and make a written response within thirty calendar days. The response shall indicate the corrections which have been or will be made and indicate the basis for denial of any requested corrections. If appropriate, the department's response will also include a statement indicating whether the records have been destroyed or transferred to another juvenile justice or child care agency.

[Statutory Authority: RCW 74.08.090 and 1979 c 155, 79-10-026 (Order 1431), § 388-70-700, filed 9/10/79. Statutory Authority: RCW 74.08.090, 78-09-098 (Order 1335), § 388-70-700, filed 9/1/78.]

### Chapter 388-71 WAC

#### INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

##### WAC

388-71-005	Duty to provide.
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388-71-020	Condition under which compact applies.
388-71-025	Exemptions.
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388-71-035	Child entering Washington state.
388-71-040	Procedures for change in placement status.
388-71-045	Retention of jurisdiction.
388-71-050	Financial responsibility.
388-71-055	Penalty for illegal placement.

**WAC 388-71-005 Duty to provide.** Under chapter 26.34 RCW it is the responsibility of the state of Washington to cooperate with the other states party to the Interstate Compact on the placement of children to the end that:

(1) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(2) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(3) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(4) Appropriate jurisdictional arrangements for the care of children will be promoted.

[Order 1081, § 388-71-005, filed 12/24/75.]

**WAC 388-71-010 Definitions.** As used in this compact:

(1) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(2) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings or causes to be sent or brought any child to another party state.

(3) "Receiving state" means the state to which a child is sent, brought or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(4) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

[Order 1081, § 388-71-010, filed 12/24/75.]

**WAC 388-71-015 Conditions for placement.** (1) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein. All state laws, rules and regulations regarding placement of American Indian Children shall be complied with by the sending agency and receiving state.

(2) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:



- (a) The name, date and place of birth of the child;
- (b) The identity and address or addresses of the parents or legal guardian;
- (c) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child;
- (d) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(3) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to subsection (2) may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(4) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

[Order 1081, § 388-71-015, filed 12/24/75.]

**WAC 388-71-020 Condition under which compact applies.** The compact is applied under the following conditions:

(1) When a sending agency in a member state wishes to place a specific child for whom it holds legal custody or placement responsibility in: a specific boarding or foster family home in another compact state; a specific relative home in another compact state; a specific child-caring institution in another compact state; or equivalent facilities for the child are not available in the sending agency's jurisdiction, and institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

(2) When a sending agency in a member state has placed a child for adoption or foster care in a home within the state and intends to continue the placement if the family plans to move to another compact state prior to the consummation of the adoption or during the continuance of the foster care status.

(3) When a "person" in a compact state (included in the legal definition of "sending agency"[]) wishes to place a child who is in his or her custody in: A specific boarding or foster family home in another compact state; or a specific preadoptive family home (independent adoption) in another compact state; or a specific relative home in another compact state except as excluded under WAC 388-71-025; or a specific child-caring institution in another compact state.

[Order 1081, § 388-71-020, filed 12/24/75.]

**WAC 388-71-025 Exemptions.** The interstate compact legislation does not apply in the following circumstances:

(1) When a potential boarding or adoptive family makes a routine inquiry or application to a compact state where they do not reside and this state wishes to

have the home studied as a possible resource for any one of a number of children needing placement. The family should be directed to apply in the state in which they reside.

(2) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(3) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

[Order 1081, § 388-71-025, filed 12/24/75.]

**WAC 388-71-030 Child leaving Washington state.** For a child leaving the state of Washington:

(1) The ESSO, voluntary agency or court in Washington completes sections I, II and III of the request to place child (Form ICPC-100A), five copies of which are forwarded to the office of social service, attention: Deputy compact administrator. Summary's regarding the child and in the case of foster family care or an adoptive placement, the prospective foster or adoptive family are to accompany the request for placement.

(2) The Washington deputy compact administrator will forward copies of the referral request and summaries to the compact administrator of the receiving state, who will forward them to their local agency requesting a recommendation within 30 days of the suitability of the plan.

(3) Upon receipt from the receiving state of their approval or disapproval of the plan for the child, the Washington deputy compact administrator will inform the local agency by forwarding copies of the returned forms and other information.

(4) Local agencies (the sending agency and the agency in the receiving state responsible for supervision) are responsible for ongoing planning during the continuance of placement.

[Order 1081, § 388-71-030, filed 12/24/75.]

**WAC 388-71-035 Child entering Washington state.** For a child entering Washington:

(1) The compact administrator of the sending state will forward request to place child forms to the Washington deputy compact administrator, together with summaries for the child and in the case of foster family care or an adoptive placement, the prospective foster or adoptive family. The compact administrator will forward the request to the appropriate local Washington agency.

(2) The local Washington agency will:

(a) Provide the requested service;

(b) Make a determination regarding the suitability of the plan; and

(c) Forward such study and recommendation to the Washington compact administrator within 30 days.

(3) The Washington compact administrator will notify the compact administrator in the sending state as to approval or disapproval of the proposed placement. The completed form shall be forwarded with the additional information considered necessary.

(4) Local agencies (the sending agency and the agency in the receiving state responsible for supervision) are responsible for ongoing planning during the continuance of placement.

[Order 1081, § 388-71-035, filed 12/24/75.]

**WAC 388-71-040 Procedures for change in placement status.** When there is a change in the placement status of the child, such as placement terminated by adoption or by a change in plans for the child, the supervising agency (the receiving state) shall initiate interstate compact report on placement status of child, notifying the state compact administrator. The compact administrator of the receiving state is responsible for forwarding copies of the report to the sending state administrator.

[Order 1081, § 388-71-040, filed 12/24/75.]

**WAC 388-71-045 Retention of jurisdiction.** The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

[Order 1081, § 388-71-045, filed 12/24/75.]

**WAC 388-71-050 Financial responsibility.** (1) The amount of financial responsibility for a child is determined by the sending state.

(2) In the event of financial default, the provisions of RCW 26.16.205 and 26.20.030 shall apply.

(3) Any agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the director of the office of program planning and fiscal management in the case of the state and of the treasurer in the case of a subdivision of the state.

[Order 1081, § 388-71-050, filed 12/24/75.]

**WAC 388-71-055 Penalty for illegal placement.** (1) The sending, bringing, or causing to be sent of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children. Any such violation shall constitute full and sufficient grounds for the suspension or revocation of any

license, permit, or other legal authorization held by the sending agency which empowers or allows it to place or care for children. (See RCW 26.34.010 Article IV.)

(2) Further, according to RCW 26.34.080, any person, firm, corporation, association or agency which places a child in the state of Washington without meeting the requirements set forth herein, or any person, firm, corporation, association or agency which receives a child in the state of Washington, where there has been no compliance with the requirements set forth herein, shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense.

[Order 1081, § 388-71-055, filed 12/24/75.]

## Chapter 388-73 WAC

### CHILD CARE AGENCIES—ADULT FAMILY HOMES MINIMUM LICENSING/CERTIFICATION REQUIREMENTS

#### WAC

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**WAC 388-73-010 Authority.** The following rules are adopted pursuant to chapter 74.15 RCW, RCW 74.08.044 and chapter 155, Laws of 1979. Unless otherwise provided these rules shall apply to all categories of agencies.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-010, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-010, filed 9/8/78.]

**WAC 388-73-012 Definitions.** (1) Those terms defined in chapter 74.15 RCW shall have the same meanings when used in this chapter except as otherwise provided herein.

(2) "A developmentally disabled person" is an individual 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) "Premises" means the buildings wherein the facility is located and the adjoining grounds over which the operator of the facility has direct control.

(4) "Full-time care provider" or "full-time care facility" means a foster family home for children or expectant mothers, group care facility, maternity home, crisis residential center, and juvenile detention facility.

(5) "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.

(6) "Capacity" means the maximum number of persons under care at a given moment in time.

(7) "Infant" means a child under one year of age.

(8) "Drop-in care" means unscheduled day care on a one-time only or irregular basis.

(9) "Child," "youth," and "juvenile" means any individual under the chronological age of eighteen years.

(10) "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.

(11) "Secure detention facility" and "juvenile detention facility" means 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.

(12) "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. 86-24-059 (Order 2445), § 388-73-012, filed 12/2/86; 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 facilities:

(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 an agency regularly providing care during part of the twenty-four-hour day to six or fewer children in the family abode of the

person or persons under whose direct care the children are placed.

(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, but not more than four, children, expectant mothers, or developmentally disabled persons in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or developmentally disabled person is placed.

(6) "Large foster family home" means a foster family home with at least two adults providing care on a twenty-four-hour basis to five to six children.

(7) "Crisis residential center" means an agency operating under contract with the department to provide temporary, protective care to children in a semisecure residential facility in the performance of duties specified and in the manner provided in 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.

(8) 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. 86-24-059 (Order 2445), § 388-73-014, filed 12/2/86; 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 388-73-016 Exceptions to rules.** In individual cases the department, at its discretion, may waive specific requirements which because of the cultural patterns of the persons served or which for other reasons are inappropriate, and may approve alternative methods of achieving the intent of specific requirements if such waiver or approval does not jeopardize the safety or welfare of the persons in care. Licenses issued under the provisions of this section may be limited or restricted by

the department. Waivers shall be in writing and a copy of the waiver maintained by the licensee.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-016, filed 9/8/78.]

**WAC 388-73-018 Persons and organizations not subject to licensing.** In addition to those persons and organizations which are exempt from the requirements of this chapter as provided in chapter 74.15 RCW, the following persons and organizations are not required to be licensed:

(1) Persons caring for a child in the child's own home whether related to the child or not.

(2) Persons who have a child in their home for purposes of adoption, provided such child was placed in such home by a licensed child-placing agency or authorized public agency, or a preplacement report is on file and has been approved by the court.

(3) An agency operated by any unit of local, state or federal government or by a tribal council operating an agency on a federally recognized Indian reservation.

(4) An agency located on a federal military reservation, except upon the invitation of the military authorities.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-018, filed 9/8/78.]

**WAC 388-73-019 Effect of local ordinances.** Licenses are issued or denied on the basis of applicants' compliance with the department's minimum licensing requirements. The enforcement of local ordinances such as zoning regulations and local building codes is the responsibility of appropriate local officials.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-019, filed 9/8/78.]

**WAC 388-73-01950 Fire standards.** All group care facilities, day care centers, mini-day care centers, and maternity centers shall conform to the rules and regulations adopted by the Washington state fire marshal's office establishing minimum standards for the prevention of fire and for the protection of life and property against fire. The Washington state fire marshal's standards are found in chapter 212-55 WAC.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-01950, filed 1/5/83.]

**WAC 388-73-020 Certification of juvenile detention facility and exempt agency.** (1) An agency legally exempt from licensing may not be licensed. However, at the agency's request, such agency may be certified by the department as meeting licensing and other pertinent requirements, if investigation proves such to be the case, to enable the agency to be eligible for the receipt of funds or for other legitimate purposes. In such cases, unless otherwise clearly evident from the text, requirements and procedures for licensing apply equally to certification.

(2) Juvenile detention facilities operated by juvenile courts, shall be certified in accord with the provision of

RCW 74.13.034, and requirements promulgated pursuant thereto. Except as otherwise indicated by the text, the requirements for licensing group care facilities also apply to the certification of juvenile detention facilities.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-020, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-020, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-020, filed 9/8/78.]

**WAC 388-73-022 Application for license or certification--Investigation.** (1) Persons or organizations applying for a license or for certification under this chapter shall do so on forms and comply with procedures prescribed by the department. The application shall be made by and in the name of the person or persons or legal entity which shall be responsible for the operation of the facility and shall include the employment and educational history of the person or persons charged with the active management of the agency. The application shall also be accompanied by completed forms enabling the department to complete a criminal history check and check of the central registry of child abuse for each staff or volunteer of the agency having unmonitored access to children, expectant mothers, or developmentally disabled persons, and to share this information with the licensee.

(2) The department may require such additional information from individual applicants as it deems necessary. The department may perform such corollary investigations of applicants, licensees, their staff and members of their households as it deems necessary, including accessing of criminal histories and law enforcement files.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-022, filed 12/2/86. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-022, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-022, filed 9/8/78.]

**WAC 388-73-024 Licenses for homes supervised by licensed agency.** Foster family homes certified by a licensed child-placing agency as meeting licensing requirements for foster family homes shall accept children only from the certifying child-placing agency or from the department when the child is in the legal custody and/or supervision of the department and each placement by the department is approved in writing by the child-placing agency responsible for supervision of the home. Licenses issued under this section are valid only as long as the homes remain under the supervision of the certifying licensed agency and operate in accordance with licensing requirements. This section does not apply to agencies which are certified (rather than licensed) in accordance with WAC 388-73-020.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-024, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-024, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-024, filed 9/8/78.]

**WAC 388-73-026 Licensing of employees.** The following persons are prohibited from obtaining a license under this chapter:

(1) Staff of the department or a member of his or her household, and staff of a child-placing agency or a member of his or her household, if such staff are involved directly or in an administrative or supervisory capacity in the licensing or certification process or in the placement of persons in a licensed or certified facility or in authorizing payment for such persons.

(2) These restrictions do not preclude the employment and licensing of a person whose exclusive duties for the employer are those of a foster parent.

[Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-026, filed 9/8/78.]

**WAC 388-73-028 Limitations on licenses.** Licenses shall not be issued to an applicant for both day care and for full-time care nor for both children and adults in the same facility, except that expectant mothers and their children may receive care in the same facility. Exceptions may be made only if it is clearly evident that care of one category of client does not interfere with the quality of care to be provided to the other categories of clients. In such circumstances, the total number of clients in all categories shall not exceed the number permitted by the most stringent capacity limitation of the categories concerned.

[Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-028, filed 9/8/78.]

**WAC 388-73-030 General qualifications of licensee, persons on the premises.** The licensee, staff and other persons on the premises shall be persons of good character. The licensee shall demonstrate that he/she, child care staff, volunteers and other persons who have access to persons under care have the understanding, ability, physical health, emotional stability and personality suited to meet the physical, mental, emotional and social needs of persons under care. The licensee, staff and other persons on the premises shall not have been convicted of child abuse and/or any crime involving physical harm to another person nor be a perpetrator of substantiated child abuse.

[Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-030, filed 9/8/78.]

**WAC 388-73-032 Age of licensee.** Applicants for a license under this chapter shall be a least eighteen years of age.

[Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-032, filed 9/8/78.]

**WAC 388-73-034 Posting of license.** All licensees, except for foster family homes for children, expectant mothers, developmentally disabled adults and adults in need of protection, shall post the license issued under this chapter in a conspicuous place.

[Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-034, filed 9/8/78.]

**WAC 388-73-036 Licensure--Denial, suspension, or revocation.** (1) Before granting a license and as a condition for continuance of a license, the department

shall consider the ability of each applicant and the chief executive officer, if any, to operate the agency in accordance with the law and this chapter. Such persons shall be considered separately and jointly as applicants or licensees and if any one be deemed disqualified by the department in accordance with chapter 74.15 RCW or this chapter, the license may be denied, suspended, revoked, or not renewed.

(a) Any individual engaging in illegal use of drugs or excessive use of alcohol shall be disqualified.

(b) Any individual convicted of a felony or released from a prison within seven years of the date of application for the license shall be disqualified by reason of such conviction if such conviction is reasonably related to the competency of the person to exercise responsibilities for ownership, operation, and/or administration of an agency; and the department determines, after investigation, that such person has not been sufficiently rehabilitated subsequent to such conviction to warrant public trust.

(c) Individuals who, in this state or elsewhere, have for cause been denied a license to operate a facility for the care of children, expectant mothers, developmentally disabled adults, or adults in need of protection, or who have had a license to operate such a facility suspended or revoked shall not be granted a license: *Provided however*, When such person demonstrates to the department and affirmatively establishes by clear, cogent, and convincing evidence his or her ability to operate an agency under this chapter, the department may waive this provision and license such an individual.

(2) A license may be denied, suspended, revoked, or not renewed for failure to comply with the provisions of chapter 74.15 RCW, and rules contained in this chapter. A license shall be denied, suspended, revoked, or not renewed for any of the following reasons:

(a) Obtaining or attempting to obtain a license by fraudulent means or misrepresentation including the making of materially false statements on the application or material omissions which would influence appraisal of the applicant's suitability;

(b) Permitting, aiding, or abetting the commission of any illegal act on the premises;

(c) Permitting, aiding, or abetting the abuse, neglect, exploitation, or cruel or indifferent care to persons under care;

(d) Repeatedly providing insufficient personnel relative to the number and types of persons under care or allowing persons unqualified by training, experience, or temperament to care for or be in contact with the persons under care;

(e) Misappropriation of the property of persons under care;

(f) Failure or inability to exercise fiscal responsibility and accountability in respect to operation of the agency;

(g) Failure to provide adequate supervision to persons under care;

(h) Refusal to admit authorized representatives of the department or state fire marshal to inspect the premises;

(i) Refusal to permit authorized representatives of the department to have access to the records necessary for

the operation of the facility or to permit them to interview agency staff and clients; and

(j) Knowingly having an employee or volunteer on the premises who has made misrepresentation or significant omissions on his or her application for employment or volunteer service.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-036, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-036, filed 9/8/78.]

**WAC 388-73-038 Licensed capacity.** The number of persons for whom a facility will be licensed is dependent upon the evaluation of the physical accommodations of the facility, the numbers and skills of the licensee, staff, family members and volunteers, and the ages and characteristics of the persons to be served. No facility shall be licensed for the care of more persons than permitted by the rules regarding the category of care for which the license is sought.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-038, filed 9/8/78.]

**WAC 388-73-040 Discrimination prohibited.** The licensee shall comply with federal and state statutory and regulatory requirements regarding nondiscrimination in employment practices and client services.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-040, filed 9/8/78.]

**WAC 388-73-042 Religious activities.** The rights of persons in care to observe the tenets of the person's faith shall be respected and facilitated consistent with state and federal law. Persons shall not be punished for exercising these rights. A written description of any religious policies and practices will be submitted to the department and shall be provided to the child and, if possible, to the family upon admission.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-042, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-042, filed 9/8/78.]

**WAC 388-73-044 Special requirements regarding American Indians.** (1) Implementation of the licensing statute will recognize the unique tribal, cultural and religious sovereignty of Indian nations, tribes and communities. The licensing of a child care agency on sovereign Indian soil shall in no way abridge the sovereignty of an Indian nation nor shall compliance with these rules and regulations be deemed to be a relinquishment of sovereign authority.

(2) For the purposes of these rules, the term "Indian" includes the following groups:

(a) An enrolled Indian:

(i) Any person who is enrolled or eligible for enrollment in a recognized tribe.

(ii) Any person determined, or eligible to be found, to be an Indian by the secretary of the interior.

(iii) An Eskimo, Aleut or other Alaskan native.

(b) A Canadian Indian: Any person who is a member of a treaty tribe, Metis community or nonstatus Indian community from Canada.

(c) An unenrolled Indian: A person considered to be an Indian by a federally or nonfederally recognized Indian tribe or urban Indian/Alaskan native community organization.

(3) Prior to planning, development and delivery of social services to Indian children and families, agencies shall:

(a) Obtain a written statement from the parent or Indian custodian regarding the preference of child placement;

(b) Obtain a written statement from the parent or Indian custodian regarding the utilization of the DSHS LICWAC.

(4) When an agency has an Indian child in its caseload, the agency shall develop social service resources and staff training programs designed to meet the special needs of such children through coordination with tribal, Indian Health Service and Bureau of Indian Affairs social service staff and appropriate urban Indian and Alaskan native consultants.

(5) In addition to reports required by WAC 388-73-056, an agency shall report to a child's tribal council the serious injury or death or abandonment of an enrolled Indian child or an Indian child eligible for enrollment.

(6) In planning foster care and adoptive placements for Indian children, consideration shall be given in the following order:

(a) Relatives;

(b) An Indian family of the same tribe as the child;

(c) An Indian family of a Washington Indian tribe of a similar culture to that tribe;

(d) Any other family which can provide a suitable home for an Indian child, such suitability to be determined through consultation with a local Indian child welfare advisory committee.

(7) When foster care or adoptive placement of a non-enrolled Indian child is planned, the Portland area office of the bureau of Indian affairs' form "family ancestry chart," or appropriate equivalent, shall be compiled. Appropriate steps shall be taken to enroll eligible children in their respective tribes.

(8) Unless contrary to the wishes of a child and/or his parent(s), agencies serving Indian children shall make efforts to recruit facilities and/or homes particularly capable of meeting the special needs of such children. Indian children shall be placed preferably in Indian foster homes or in non-Indian foster homes specifically recruited and trained to meet the special needs of Indian foster children.

(9) When an agency has an Indian child in its caseload, the agency shall have a written policy and procedures statement on legal practices which shall reflect the rights of Indian children and families based upon their unique social-legal status guaranteed by treaty and federal law.

(10) If not contrary to the wishes of a child and/or his parent(s), in the adoptive placement of Indian children adoptive homes having the following characteristics shall be given preference in the following order:

(a) An Indian family of the same tribe as the child within thirty days from the time the child is determined to be legally and otherwise ready for adoptive planning.

(b) Within an additional thirty days, a Washington Indian family; considering first a family of similar cultural background, for example, eastern or western Washington.

(c) Within an additional thirty days, an Indian family from elsewhere in the United States or Canada, through the Adoption Resource Exchange of North America, or other recognized adoption agency outside of Washington state. Attention shall be given to matching the child to an Indian family whose culture is similar to that of his natural parents, such as, Coastal, Plateau, Plains, Southwest, Woodland.

(d) Any other family who can provide a suitable home to an Indian child, as well as instill pride and understanding in the child's tribal and cultural heritage. See also (c) of this subsection.

(11) All agencies:

(a) Shall utilize the DSHS brochure, DSHS 22-195(X), as a manner of obtaining client consent for review by the DSHS local Indian child welfare advisory committee (LICWAC).

(b) Shall consult with the LICWAC or regional Indian consultant on case planning, development and service delivery.

(c) Shall utilize the LICWAC or regional Indian consultant to assist in the recruitment of appropriate tribal and urban Indian foster care and adoptive homes for Indian children.

(d) Shall utilize the LICWAC or regional Indian consultant in the development and provision of staff training.

(e) Shall complete a "Verification of American Indian status" form for each family applying for foster care or adoptive care of Indian children. The verification form must be complete and on file, with review and approval by the LICWAC, prior to placement. When Indian homes are not available, Indian children shall be placed, in cooperation with LICWAC, in non-Indian homes specifically recruited and trained to meet the special needs of Indian children.

[Statutory Authority: RCW 74.15.030. 81-20-011 (Order 1703), § 388-73-044, filed 9/25/81; 78-10-006 (Order 1336), § 388-73-044, filed 9/8/78.]

**WAC 388-73-046 Discipline.** (1) Disciplinary practices shall be stated in writing. Discipline shall be a responsibility of the licensee or staff, and shall not be prescribed or administered by persons under care. Discipline shall be based on an understanding of the individual's needs and stage of development and shall be designed to help the individual develop inner control, acceptable behavior and respect for the rights of others.

(2) Discipline shall be fair, reasonable, consistent and related to the individual's behavior. Cruel and unusual discipline, discipline hazardous to health, and frightening or humiliating discipline shall not be administered.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-046, filed 9/8/78.]

**WAC 388-73-048 Corporal punishment.** (1) Corporal punishment is prohibited.

(2) The use of such amounts of physical restraint as may be reasonable and necessary to:

(a) Protect persons on the premises from physical injury,

(b) Obtain possession of a weapon or other dangerous object,

(c) Protect property from serious damage, shall not be construed to constitute corporal punishment.

(3) Mechanical restraints may not be used. These include but are not limited to: Handcuffs, belt restraints, and locked time-out rooms.

(4) Physical restraints which could be injurious are not to be used. These include but are not limited to: A large adult sitting on or straddling a small child, sleeper holds, arm twisting, hair holds, and throwing children and youths against walls, furniture, or other large immobile objects.

(5) The restrictions listed in subsections (3) and (4) of this section immediately preceding do not apply to juvenile detention facilities.

(6) Staff employed in group care facilities where it may be necessary to restrain children shall be trained in the use of appropriate restraining techniques.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-048, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-048, filed 9/8/78.]

**WAC 388-73-050 Abuse, neglect, exploitation.** Licensees shall protect persons, while in the licensee's care, from child abuse or neglect as defined in RCW 26.44.020(12).

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-050, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-050, filed 9/8/78.]

**WAC 388-73-052 Interstate placement of children.** All interstate placement of children shall be in accordance with chapter 26.34 RCW, except that for children who are in the care of a crisis residential center and who have legal residence outside the state of Washington and who refuse to return home, provisions of chapter 13.24 RCW (interstate compact on juveniles) shall apply.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-052, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-052, filed 9/8/78.]

**WAC 388-73-054 Client records and information-- All agencies.** (1) 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. Records shall contain, at a minimum, the following information:

(a) Identifying information, including name, birthdate, and, for full-time care providers, dates of admission, absences, and discharge; for day care providers, daily attendance.



(b) Names, addresses, and telephone numbers, if any (home and business), of parents and/or other persons to be contacted in case of emergency.

(c) 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.

(d) Written parental consent (or court order) for providing medical care and emergency surgery, except as such care is otherwise authorized by law.

(e) Names, addresses, and telephone numbers of persons authorized to take the person under care out of the facility.

(f) 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.

(g) In addition, for day care facilities completed application signed by the parent, guardian, or responsible relative.

(h) For day care facilities written consent signed by the parent or parents for all transportation provided by the caregiver, trips, and swimming if the child will be participating in these activities.

(i) A copy of the report sent to the department licensor of all accidents, injuries, and illnesses requiring inpatient hospitalization occurring to the child while he or she is present at the facility.

(j) Immunization records as per WAC 388-73-140 (4) and (5).

(2) 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. 86-24-059 (Order 2445), § 388-73-054, filed 12/2/86; 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 388-73-056 Reporting of illness, death, injury, epidemic, child abuse, or unauthorized absence—All facilities.** The licensee shall report to the persons indicated the following events as soon as practical after occurrence:

(1) To the licensor, responsible relative, and child's placement worker (if any), death, or serious injuries which include, but are not limited to:

(a) An injury requiring stitches,

(b) Casting, or

(c) Hospitalization of a child in care.

(2) To the department of social and health services' child protective services or law enforcement any instance where there is reasonable cause to believe that child abuse, neglect, or exploitation may have occurred. See chapter 26.44 RCW and WAC 388-73-044 and 388-73-050.

(3) To the department's division of health and to the local public health department any occurrence of food poisoning or communicable disease as required by the state board of health.

(4) To the placement agency (if any) or responsible relative the unauthorized absence of a child.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-056, filed 12/2/86. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-056, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-056, filed 9/8/78.]

**WAC 388-73-057 Reporting of circumstantial changes.** Agencies shall report to the department changes in circumstances which might constitute grounds for reclassification of agency as to category of license or continued eligibility for license and major changes in staff or program, including the following:

(1) Changes in agency's address or location and phone number (license is valid only for address indicated on the license).

(2) Changes in the maximum number, age ranges, and sex of persons licensee wishes to serve as compared to specifications in the license.

(3) Changes in number and qualifications of agency's staffing pattern, change of agency's chief executive, and the death, retirement, or incapacity of a licensee. (A license is valid only for the person or organization named on the license.)

(4) Occurrence of a fire on licensed premises, major structural changes, or damage to premises from any causes and plans for major remodeling of facility.

(5) Change in name of a licensed corporation, or name by which a facility is commonly known, and changes in agency's articles of incorporation and 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 388-73-060 Work assignments.** Persons under care shall not be used to carry the responsibility for basic maintenance of the facility and equipment. However, household tasks may be performed insofar as appropriate to the program and as part of a planned learning experience. Work assignments shall be appropriate to the age and physical condition of the person under care. Work assignments other than household tasks which are part of the treatment plan may be performed insofar as appropriate to the age and physical condition of the person under care and adequate monetary compensation shall be provided.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-060, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-060, filed 9/8/78.]

**WAC 388-73-062 Transportation.** When a licensee provides transportation for persons under care:

(1) The vehicle shall be in safe operating condition. The driver shall have a current driver's license.

(2) There shall be at least one adult supervisor other than the driver in a vehicle when there are more than six preschool-aged children in the vehicle.

(3) Licensee or driver shall carry liability and medical insurance.

(4) Seat belts or other appropriate safety devices shall be provided for all passengers. The number of passengers shall not exceed the vehicle's seating capacity. Buses approved by the state patrol shall not be required to be equipped with seat belts.

(5) Day care facilities transporting children shall have written parental permission.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-062, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-062, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-062, filed 9/8/78.]

**WAC 388-73-064 Clothing.** Full-time care providers are responsible to provide or arrange for clothing for the persons under care. Clothing shall be neat, seasonable and of such quality and design as to foster self-respect.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-064, filed 9/8/78.]

**WAC 388-73-066 Personal hygiene.** Licensees are responsible to provide or arrange for items needed for good grooming and personal hygiene for persons under care.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-066, filed 9/8/78.]

**WAC 388-73-068 Personnel policies.** (1) Each employee or volunteer having unmonitored access to children, expectant mothers, or developmentally disabled persons shall have completed an application for employment on a form prescribed by the department and forms enabling the department to complete a criminal history check and check of the central registry of child abuse and to share this information with the licensee. Misrepresentation by the prospective employee or volunteer shall be grounds for termination or denial of employment or volunteer service, as the case may be.

(2) All agencies employing five or more persons shall have written policies covering qualifications and duties of staff and volunteers.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-068, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-068, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-068, filed 9/8/78.]

**WAC 388-73-069 Consumption of alcoholic beverages.** Except for family homes, foster and day care, licensees and staff may not consume or have in their possession or on their person alcoholic beverages on the premises while children are in care. Persons providing direct care to children in family day care homes may not consume alcoholic beverages while providing care.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-069, filed 12/2/86.]

**WAC 388-73-070 Training.** Staff shall be made aware of the licensee's policies and procedures and the rules contained in this chapter. All agencies employing five or more persons shall have an in-service training program for developing and upgrading staff skills. The agency shall provide or arrange for training in practice skills for its staff responsible for delivering the specific services it offers. Facilities required to provide staff training shall record the delivery and the nature of the training either in each employee's file or in a separate training file.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-070, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-070, 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 388-73-074 Social service staff.** (1) Each child-placing agency, day treatment program, maternity service, and group care facility, except for juvenile detention facilities, shall provide or arrange for social services by persons at least one of whom has a master's degree in social work or closely allied field.

(2) Social service staff not having a master's degree in social work shall have a bachelor's degree in social work or closely allied field and shall receive face-to-face supervision by a person having a master's degree in social work or closely allied field for a minimum of one hour for each twenty hours of paid employment.

(3) When social services are provided by an agency other than the licensee, there shall be a written agreement detailing the scope of service to be provided. Any such agreement must meet the requirements of this section.

(4) The following minimum ratios of full-time social service staff providing direct services to persons under care shall be provided:

Day treatment program	1 to 15
Group care facilities	1 to 25
Child-placing agency	1 to 25
Maternity services	1 to 25
Regional and other group care crisis residential centers	1 to 5

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-074, filed 12/2/86. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-074, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-074, filed 9/8/78.]

**WAC 388-73-076 Social study--Treatment plans.** Except for juvenile detention facilities, the social service staff of each child-placing agency, day treatment program, maternity service, and group care facility shall:

(1) Develop or assemble from appropriate sources a written diagnostic social study on each child and expectant mother accepted for care. Except in the case of persons accepted for emergency care, the study shall serve as the basis of the person's admission to care. In

such case, the study shall be completed within thirty days after admission if the person remains in care. The study shall contain in addition to the minimum information recorded as required by WAC 388-73-054 the following information:

(a) Child's school records, when possible. Where children attend school away from the facility, records mean grade placement, reports, and correspondence with schools. Where the facility has a school on the grounds, records shall mean transcripts and other records normally kept by a school.

(b) Copies of psychological or psychiatric evaluations, if any, of the child or expectant mother.

(c) A narrative description of the background of the child and his or her family, the child's interrelationships and the problems and behaviors necessitating care away from own home, previous placement history, if any, and an evaluation as to need for the particular services and type of care the licensee will provide. For American Indian children, see WAC 388-73-044.

(2) Develop and implement a written treatment plan for each person accepted for care. Such plan shall outline the agency's treatment goals and methods of work with the individual and his or her family. The plan shall be updated at least quarterly to show progress toward achievement of goals and shall identify impediments to the return of the child to his or her own home, the home of relatives, or placement for adoption and steps taken or to be taken to overcome those impediments. No person shall be admitted to nor retained in an agency's program where the person cannot be served effectively by the program or where the person can be served more appropriately by another available program.

(3) Whenever the treatment plan indicates the child may return to his or her own home, the agency shall provide or arrange for services to child's parents. Where geographical or other conditions prevent the licensee from working directly with child's parents or another agency is already providing appropriate services, the licensee shall enter into an agreement with the agency for joint planning and exchange of reports toward the end of reuniting the family, or shall make arrangements with another appropriate agency toward that end.

(4) Whenever the treatment plan indicates the child will not be able to return to his or her own home, the agency shall move expeditiously to develop a plan for permanence for the child. The permanent placement for the child shall be made in a family able to meet the child's physical, emotional, and cultural needs.

(5) Agency records shall include a running account of the treatment received by the child and others involved in the treatment plan including but not limited to group treatment, individual counseling, etc., whether delivered by the agency or a contracted source. The file shall be updated no less frequently than once per thirty days.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-076, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-076, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-076, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-076, filed 9/8/78.]

**WAC 388-73-077 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 388-73-078 Clerical, accounting and administrative services.** Except for foster family homes for children or expectant mothers, family homes for adults and family day care homes, each agency shall provide or arrange for sufficient clerical, accounting and administrative staff or services as are required to maintain proper records and carry out the agency's program.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-078, filed 9/8/78.]

**WAC 388-73-080 Support and maintenance staff.** Except for foster family homes for children or expectant mothers, family homes for adults and family day care homes, each licensee shall provide or arrange for sufficient support and maintenance staff or services as are required for the maintenance and repair of the facility and preparation and serving of meals.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-080, filed 9/8/78.]

**WAC 388-73-100 Site and telephone.** The facility shall be located on a well-drained site free from hazardous conditions and accessible to other facilities necessary to carry out its program. There shall be at least one telephone on the premises which shall be accessible for emergency use at all times.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-100, filed 9/8/78.]

**WAC 388-73-102 Equipment, safety, and maintenance.** (1) The physical plant, premises, and equipment shall be maintained in a clean and sanitary condition, free of hazards, and in good repair. Steps shall be provided with handrails as determined necessary by the department. Emergency lighting devices, such as flashlights, in operational condition shall be available. All flaking or deteriorating lead-based paint on exterior and interior surfaces and equipment and toys accessible to preschool-age children shall be refinished with lead-free paint or other nontoxic material.

(2) Except in family day care and foster family homes, toilet rooms, kitchens, and other rooms subject to moisture shall have washable, moisture impervious floors

except that in kitchens, washable short-pile carpeting that is kept clean and sanitary may be approved by the department.

(3) Except in family day care and foster family homes, facilities caring for preschool children shall have electrical outlets of a safety type, covered with blank plates, or otherwise made inaccessible to such children.

(4) There shall be provision for staff members to gain rapid access to any bedroom, toilet room, shower room, bathroom, or other room occupied by children should emergency need arise.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-102, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-102, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-102, filed 9/8/78.]

**WAC 388-73-103 Water safety.** (1) Except for foster family homes, when a swimming pool is used at a child care agency, the swimming pool shall meet the requirements of chapter 248-98 WAC as applicable to public and semipublic pools.

(2) Pools shall be fenced with a locked gate to make the pool inaccessible to children when not in use.

(3) Except for foster family homes, a certified life-guard shall be in attendance at all times when children are using a swimming pool or swimming area.

(4) Portable wading pools shall be permitted if the portable wading pools are emptied and cleaned daily. Children shall be supervised at all times when wading.

(5) Hot tubs, spas, etc., shall be inaccessible when not in use and shall not be used by children without adult supervision.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-103, filed 1/5/83.]

**WAC 388-73-104 Firearms.** Firearms, if any, shall be used only under competent adult supervision and when not in use shall be kept in locked storage accessible only to authorized persons.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-104, filed 9/8/78.]

**WAC 388-73-106 Storage.** (1) Suitable space shall be provided and used for the storage of clothing and personal possessions of person in care, play and teaching equipment and supplies, records and files, cots, mats and bedding.

(2) Cleaning supplies, toxic substances, poisons, aerosols, and items bearing warning labels shall be stored so as to be inaccessible to preschool children and other persons with limited mental capacity. All containers filled from a stock supply shall bear a label correctly identifying the contents.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-106, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-106, filed 9/8/78.]

**WAC 388-73-108 Bedrooms.** In full-time care facilities:

(1) Hallways, kitchens, living rooms, dining rooms, and unfinished basements shall not be used as bedrooms. Every bedroom shall be an outside room permitting entrance of natural light. Separate sleeping quarters shall

be furnished for each sex for children over six years of age.

Multiple occupancy bedrooms shall provide not less than fifty square feet per occupant of floor area exclusive of closets. There shall be not less than thirty inches laterally between beds. In group-care facilities and maternity homes, single occupancy bedrooms shall provide at least eighty square feet of floor space. Each person in care shall have a bed of his 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.

For facilities licensed after December 31, 1986, sleeping rooms shall have a minimum ceiling height of 7.5 feet and shall have a window area, permitting the direct entrance of natural light, of not less than one-tenth of the required floor space.

(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. 86-24-059 (Order 2445), § 388-73-108, filed 12/2/86; 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 388-73-110 Special care room.** Except for child-placing agencies, foster family homes for children, expectant mothers or adults and family day care homes, each agency shall provide a separate room or segregated area which is designated for the care of a person under care who needs to be separated from the group due to injury, illness or the need for additional rest. This room or area must be located so that the child can be supervised. Toilet and lavatory facilities shall be readily accessible. If the person under care is suspected of having

a communicable disease, all equipment used by the child must be adequately sanitized after use. This room or area may be used for other purposes when not needed for the separation and care of a person in care.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-110, filed 9/8/78.]

**WAC 388-73-112 Kitchen facilities.** (1) Facilities for the proper storage, preparation, and service of food shall be provided to meet the needs of the program.

(2) All food service facilities and practices in day care centers, day treatment programs, group care facilities, and maternity homes shall be in compliance with chapter 248-84 WAC, rules and regulations of the state board of health governing food service sanitation, except home canned high-acid foods with a pH of less than 4.6 (such as canned fruits, jams, jellies, and pickles) may be used. Kitchen equipment and food preparation procedures shall be approved by the department.

(3) Children may participate in food preparation provided it is part of an agency's supervised program. Preschool-age children shall be supervised when in the kitchen.

(4) In day care centers and mini-day care centers not in the provider's abode, the kitchen shall be inaccessible to children except for planned and supervised activities.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-112, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-112, filed 9/8/78.]

**WAC 388-73-114 Housekeeping sink.** All facilities shall have and use a method of drawing clean mop water and have and use an appropriate method of waste water disposal.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-114, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-114, filed 9/8/78.]

**WAC 388-73-116 Laundry.** (1) Adequate facilities shall be provided for separate storage of soiled linen and clean linen. Adequate laundry and drying equipment shall be provided unless other suitable arrangements are made.

(2) Except in family day care and foster homes, laundry equipment shall be located in an area separate from the kitchen and child care areas. Water temperature for laundry shall be maintained at a minimum of 140°F for laundry contaminated with urine, feces, infectious material, lice, or scabies. A lower wash temperature may be used for other laundry.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-116, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-116, filed 9/8/78.]

**WAC 388-73-118 Toilets, handwashing sinks, and bathing facilities.** (1) There shall be at least one indoor flush-type toilet and one nearby handwashing sink with hot and cold or tempered running water. The following ratios of persons normally on the premises to facilities shall apply:

	Toilets	Handwashing Sinks	Bathing Facilities
Day Care Centers Day Treatment Programs	*2 minimum and 1:15 or major fraction	2 minimum and 1:15 or major fraction	None Required
Mini-Day Care Programs	1 minimum	1 minimum	None Required
Group Care Facilities Maternity Homes	2 minimum and 1:8 or major fraction	2 minimum and 1:8 or major fraction	1 minimum and 1:8 or major fraction
Family Home for Adults Foster Family Home Family Day Care Home	1 minimum	1 minimum	1 minimum

\*A minimum of one is acceptable provided no more than fifteen persons capable of using a flush-type toilet are on the premises.

(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 impervious to moisture.

(4) Except in family day care and foster family homes, handwashing and bathing facilities shall be provided with hot and cold or tempered running water not exceeding one hundred ten degrees Fahrenheit for preschool or developmentally disabled 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. Children less than eighteen months of age and/or using toilet training equipment need not be included when determining the number of flush-type toilets required.

(7) Whenever urinals are provided, the number of urinals shall not replace more than one-third of the total required toilets.

(8) In maternity homes, bathing facilities shall have adequate grab bars in convenient places. All sleeping areas shall have at least one toilet and handwashing sink 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. 86-24-059 (Order 2445), § 388-73-118, filed 12/2/86; 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 388-73-120 Lighting.** Light fixtures shall be selected and located to provide for the comfort and safety of the persons under care. Lighting intensities shall be at least fifteen foot-candles for all rooms and areas used for care, except for classrooms, study areas,

and food service areas, which shall be thirty foot-candles. Except for family homes, foster and day care, light bulbs and tubes shall be adequately shielded from breakage in areas used by children.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-120, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-120, filed 9/8/78.]

**WAC 388-73-122 Pest control.** The premises shall be kept free from rodents, flies, cockroaches, and other insects.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-122, filed 9/8/78.]

**WAC 388-73-124 Sewage and liquid wastes.** Sewage and liquid wastes shall be discharged into a public sewer system or into an independent sewage system approved by the local health authority or department.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-124, filed 9/8/78.]

**WAC 388-73-126 Water supply.** A private water supply must be approved by the local health authority or department. Disposable paper cups, individual drinking cups or glasses or inclined jet type drinking fountains shall be provided. Bubbler type fountains and common drinking cups are prohibited.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-126, filed 9/8/78.]

**WAC 388-73-128 Temperature.** Temperature within the facility shall be maintained at not less than 68°F during waking hours, and at not less than 60°F during sleeping hours.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-128, filed 9/8/78.]

**WAC 388-73-130 Ventilation.** The facility shall be ventilated to assure health and comfort of the persons under care. Toilets, bathrooms and areas which contain housekeeping sinks which do not have windows opening to out of doors shall be vented by mechanical exhaust to the out of doors.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-130, filed 9/8/78.]

**WAC 388-73-132 Health care plan.** (1) All facilities providing direct care shall maintain current written medical policies and procedures including handwashing (i.e., for staff and children), communicable disease reporting and management, medication management, first aid, care of minor illnesses, action to be taken in event of medical emergencies, infant care procedures when infants are under care, and general health practices. The policies and procedures shall be written for staff orientation and readily available for implementation. For day care facilities, parents or guardians shall be informed of said policy.

(2) Agencies licensed for the care of thirteen or more persons and all group homes shall arrange for the services of an advisory physician, physician's assistant, or

registered nurse to assist in the development and periodic review of the agency's health policies, procedures, and practices. Emergency phone numbers shall be posted next to the phone.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-132, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-132, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-132, filed 9/8/78.]

**WAC 388-73-134 First aid.** (1) A person having completed a basic Red Cross first-aid course or a first-aid course approved by the department and training in cardiopulmonary resuscitation (CPR) shall be present at all times persons are under care except for foster family homes, the "at all times" provision is not applicable. All said training shall be current. The requirement for CPR training may be waived for persons when such training is contraindicated for medical reasons. The CPR course shall include administration for the age group in care.

(2) For foster family care, the primary caregiver shall meet these requirements; except when a child for whom it is medically indicated is in care, a person meeting these requirements shall be present at all times.

(3) Documentation of persons having completed the training shall be maintained in the facility.

(4) First-aid supplies as needed to conform with first-aid policies and procedures shall be readily available. First-aid supplies shall include syrup of ipecac to be administered only on the advice of a physician or poison control center.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-134, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-134, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-134, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-134, filed 9/8/78.]

**WAC 388-73-136 Medications controlled by licensee.** (1) All medications refrigerated or nonrefrigerated shall be kept in an orderly fashion in locked storage or otherwise made inaccessible to children.

(2) External medications shall be stored separately (separate compartments) from internal medications.

(3) Medications must be stored in the medication's original container. Any medication container brought into the facility by the parent, guardian, or responsible relative of a child shall be appropriately labeled and have the child's first and last name on it.

(4) Only the licensee or responsible designee shall disburse or have access to medications except for self-administered medications as provided for in WAC 388-73-138.

(5) Medications shall be disbursed only on the written approval of a parent or person or agency having authority by court order to approve medical care.

(6) Prescription 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.

(7) Except for foster family care and family day care, nonprescription medication shall be disbursed only as authorized by a physician or as based on established medical policy approved by a physician.

(8) Except for foster family homes, a record shall be kept of all medications disbursed and "as needed" medications shall be approved by a physician or registered nurse prior to disbursement.

(9) Unused medications shall be properly disposed of or returned to the parent or other responsible party.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-136, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-136, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-136, filed 9/8/78.]

**WAC 388-73-138 Self-administration of medications.** Self-administration of medications by a person in care shall be in accordance with the following:

(1) The person shall be physically and mentally capable of properly taking his or her own medication. The licensee shall make a written statement of the person's capacities and include such statement in the person's file.

(2) Medications and other medical supplies shall be kept so they are not available to unauthorized persons.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-138, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-138, filed 9/8/78.]

**WAC 388-73-140 Health history, physical examinations, immunizations.** This section is not applicable to crisis residential centers and juvenile detention facilities.

(1) A health history for each person under care shall be obtained when the person is accepted for care, 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.

(5) Each facility shall have written policies and procedures regarding the control of infections in the facility. This shall 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, 86-24-059 (Order 2445), § 388-73-142, filed 12/2/86; 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 shall be planned to meet the needs of the persons under care, taking into consideration the persons' ages, developmental levels, individual metabolic differences, cultural backgrounds, any handicapping conditions, 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 and one and two percent butterfat milks shall not be used for drinking purposes by any child less than eighteen months 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 eighteen months of age, provided the preparation, service, and storage of

said milk is in accordance with the requirements of chapter 248-84 WAC relating to potentially hazardous foods.

(3) Except for family day care and foster homes, facilities shall record all food served.

(a) 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.

(b) 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.

(c) The menus shall be kept on file for a minimum of six months for review by the department.

(d) 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.

(a) The licensee shall obtain from the parent, responsible guardian, responsible relative, or physician a written diet listing foods the person cannot have. Dietary restrictions with persons' names must be posted for staff to follow.

(b) 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 midmorning and midafternoon snacks. If breakfast was served to all children, then a midmorning 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 the 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. 86-24-059 (Order 2445), § 388-73-144, filed 12/2/86; 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, family day care homes, group care facilities, and facilities for severely and multiply-handicapped children.

(1) A child 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. Diaper-changing areas shall be separate from food preparation areas and shall be adjacent to a handwashing sink. The designated changing area shall be impervious to moisture and washable.

(4) Except for foster family homes and family day care homes, disposable diapers, a commercial diaper service, or reusable diapers supplied by the child's family shall be used. Soiled diapers shall be placed without rinsing into separate, cleanable, covered containers provided with waterproof liners prior to transport to laundry, parent, or acceptable disposal. Soiled 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. Potty chairs, when in use, shall be located on washable, impervious surfaces.

(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 an area separate from diapering areas.

(iii) Filled bottles shall be refrigerated if not used immediately and the contents shall be 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.

(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.

(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 by the care giver 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 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 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, day care facilities licensed for the care of 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. A written agreement with the registered nurse shall be available in the facility and on-site visits shall be documented. The nurse's name and telephone number shall be posted or otherwise available in the agency.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-146, filed 12/2/86; 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 388-73-200 Child-placing agency.** The rules in WAC 388-73-200 through 388-73-250 apply exclusively to licensing of a child-placing agency.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-200, filed 9/8/78.]

**WAC 388-73-202 Required personnel.** (1) A director shall be employed who is at least twenty-one years of age and who is a mature person especially equipped by training, experience, and personal qualities to ensure an effective program, staff development, and efficient administration. That person must possess an understanding of the program to be administered and have demonstrated such leadership and supervisory ability as will

ensure harmonious relationships and effective performance of agency personnel.

(2) Specialists in mental health, education, religion, and law shall also be available as needed for work with agency staff, children, and parents. Specialists used by the agency shall meet the full requirements of professional competence in their respective fields.

(3) There shall be on staff a casework supervisor who has a master's degree from a recognized school of social work or equivalent academic training. Such person shall have experience and demonstrated skills in each service area where supervision is provided and ability to teach and transmit knowledge which will ensure staff development and efficient administration of the casework program. See also WAC 388-73-074.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-202, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-202, filed 9/8/78.]

**WAC 388-73-204 Office space.** The agency shall be housed in offices adequately equipped to carry out its program and which provide privacy for interviews with parents and children.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-204, filed 9/8/78.]

**WAC 388-73-206 Out-of-country, out-of-state agencies.** Child-placing agencies whose principal offices are not located in the state of Washington and who do not maintain offices in the state of Washington licensed in accord with these rules may arrange for the placement of children in the state of Washington under the following conditions:

(1) Such agency must be licensed, certified or otherwise appropriately approved for child-placing functions in its home state or country;

(2) Such agency shall comply with the provisions of the interstate compact on the placement of children and shall enter into written agreements with licensed or otherwise legally operating child-placing agencies in the state of Washington which shall be responsible for conducting a study of the home in which the child is placed, related casework and for the proper supervision of the placement until the child is legally adopted or attains the age of majority; and

(3) Such agency shall furnish the department copies of its agreements with Washington state agencies, evidence that it is a duly authorized child-placing agency in its home state or country, evidence that it has legal authority to place the child, and certify that it will assume financial responsibility for any child placed in the state of Washington until the child is adopted or otherwise is financially independent.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-206, filed 9/8/78.]

**WAC 388-73-208 Medical care.** It shall be the responsibility of the child-placing agency to provide to foster and adoptive parents a health history as complete as possible for each child upon placement. This history shall include an immunization history, allergies, previous

illnesses, and conditions of the child which may adversely affect his or her health. For adoptive children, it shall also include a developmental and psychological history. Adoptive parents shall also receive all available medical information on the birth parents of their adopted child. The child-placing agency has responsibility to arrange for medical examinations, immunizations, and health care as required by WAC 388-73-140.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-208, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-208, filed 9/8/78.]

**WAC 388-73-210 Foster care licensees.** As a minimum child-placing agencies shall utilize application and home study forms and procedures prescribed by the department. See also WAC 388-73-024 and 388-73-302.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-210, filed 9/8/78.]

**WAC 388-73-212 Foster care placements.** (1) The agency shall, in planning for children, give due consideration to:

(a) A child's basic right to his or her own home and family;

(b) The importance of skillful professional service to parents to help them meet the child's needs in his or her own home whenever possible;

(c) The child's individual needs, his or her ethnic background, religious background, his or her family situation and the wishes and participation of his or her parent; and

(d) The recruitment and selection of a foster home that will provide for maximum development of the child's capacities and meet the child's individual needs. Placements which involve the likelihood of community concern shall first be submitted to the department for review and written approval. See WAC 388-73-044 for recruitment involving placement of American Indian children.

(2) A written social study of each child and expectant mother shall serve as the basis for acceptance for foster care and related services.

(3) Every acceptance for care shall be based on well-planned, individual preparation of the child and his or her family and the expectant mother other than in emergent situations.

(4) Except in an emergency, a child shall be placed in foster care only with the written consent of his or her parents or under order of a court of competent jurisdiction. Such consent or order shall include authorization for medical care or emergency surgery.

(5) All foster homes and group care facilities used by child-placing agencies shall be licensed prior to placing any children therein.

(6) Sufficient information about the child (especially behavioral and emotional problems) and his or her family will be given to foster parents to enable them to make an informed decision regarding whether or not to accept a child in their home. Foster parents must be informed that this information is confidential and may not be

shared. The provision of this information is to be documented in the child's file at the time of placement.

(7) The frequency of the caseworker's contacts with an expectant mother or child and his or her family shall be determined by a casework plan reflecting their needs. Each active foster home shall be visited not less than once every ninety days.

(8) The preparation for discharge from placement shall follow the same basic steps as preparation for placement, but a child shall be released only to parents, adoptive parents, guardians or other persons or agencies holding legal custody, or to a court of competent jurisdiction.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-212, filed 12/2/86. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-212, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-212, filed 9/8/78.]

**WAC 388-73-214 Adoption procedures.** (1) All agencies providing adoption services shall have supervisory staff having experience and demonstrated skills in adoption services and an in-service training program to train service staff in adoption services.

(2) All agencies providing adoption services shall, as a minimum, provide to adoptive applicants the following services:

(a) Information about the adoption process, agency policy and practices, legal procedures, types of children available, implications for parenting different types of children, fees, and the availability of subsidy.

(b) An adoptive home study in which agency staff and applicant or applicants collaboratively assess the applicant or applicants appropriateness to be an adoptive parent, and the type of child or children for which the applicant or applicants are best suited.

(c) Acceptance or denial of the application with an explanation, when the application is denied, of the reason for denial.

(d) Preparation for placement of a specific child, with preparation including review and interpretation of all available social, medical, and psychological records of the child, and a discussion of the likely implications of the child's background for his or her adjustment in the adoptive family.

(e) Reevaluation of the applicant or applicants appropriateness for adoption upon each request for an additional adoptive placement.

(3) All agencies providing specialized adoption services, such as intercountry adoption, interstate adoption, and special needs adoptions, shall have supervisor staff having specialized training in the particular area and an in-service training program to train service staff in adoption for special needs children.

(4) All agencies accepting for adoptive placement children having a special need (racial minority, developmental disability, emotional disability, etc.) shall have a plan for active recruitment of families of the same race or ethnic category as the children, or able to meet the child's other special needs.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-214, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-214, filed 9/8/78.]

**WAC 388-73-216 Adoptive placements.** (1) The agency shall protect the child from unnecessary separation from his or her natural parents when the natural parents are capable of successfully fulfilling their parental role or can be helped to do so. Adoptive placement shall be made only when the child is freed for adoption by action of a court of competent jurisdiction giving the agency authority to place such child for adoption and to consent to his or her adoption as provided by chapter 26.33 RCW.

(2) The agency shall evaluate potential adoptive parents for a child in relation to their capacity and readiness for parenthood, their emotional and physical health and ability to meet the physical, social, emotional, educational, and cultural needs of the child. An agency placing a child for whom it feels that continued contact with the child's birth family is in the child's best interest shall evaluate the adoptive family's willingness to have the child maintain contact with members of his or her birth family. Preplacement reports shall be filed with the court as required by RCW 26.33.180 through 26.33.230.

(3) Except for inter-country adoptions, the agency shall place all minority race children whose case plan is adoption into families of the same racial background as the child: *Provided*, That if both the agency's own recruitment effort and registration with the Washington adoption resource exchange fail to identify a suitable family within ninety days, placement with a family of a different racial background may be considered: *And provided further*, That if a child was placed into a foster family of a different racial background before adoption was considered for the child, and if a strong attachment has developed between the foster parents and the child, and if the family can describe specific actions it will take to ensure the child's racial identification is maintained and enhanced, then adoption by the foster family may be considered: *And provided further*, That if the child's birth parent or parents make a specific written request the child be placed in a family of a racial background different from that of the child, this request may be considered. See WAC 388-73-044 for placement involving an American Indian child.

(4) The agency shall transmit to the adoptive parent or parents at time of placement a report containing all reasonably known medical, social, and psychological information about the child and his or her birth parents. The report shall contain no information which might identify the birth parents. The adoptive parent or parents shall sign one copy of the report, signifying receipt of the information. This signed copy shall be retained in the child's permanent record.

(5) The agency shall provide supervision of all adoptive placements at least once per month until the adoption is finalized. Upon filing of the petition for adoption, the agency shall make recommendation to the court on the advisability of finalizing the adoption.

(6) The agency shall be available for consultation and support of the adoptive family after finalization of the adoption.

(7) The agency shall maintain a permanent sealed record of each person for whom it has accepted permanent custody. This record shall contain all available identifying legal, medical, and social information. Access to the identifying information shall not be given without a court order if the person has been adopted. In the event the agency closes, the agency shall make arrangements for the permanent retention of these records.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-216, filed 12/2/86. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-216, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-216, filed 9/8/78.]

**WAC 388-73-300 Foster family homes.** The rules in WAC 388-73-300 through 388-73-350 apply exclusively to licensing foster family homes for children, expectant mothers, and developmentally disabled persons.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-300, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-300, filed 9/8/78.]

**WAC 388-73-302 Orientation and training.** Applicants and foster family home licensees other than those certified for licensing by a licensed child placing agency shall attend orientation and training programs provided, arranged or approved by the department.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-302, filed 9/8/78.]

**WAC 388-73-304 Capacity.** (1) No family home for developmentally disabled persons shall be licensed for more than four persons.

(2) No foster family home for children shall be licensed for more than four foster children, nor more than a total of six children to include the foster parents' own or adopted minor children residing in the home; except that "a large foster home" where there are at least two adults providing care may be licensed for five or six foster children, such number to be reduced by the number of the foster parents' own or adopted children residing in the home.

(a) No home designated by the department as a "receiving home" shall be licensed for more than six foster children, such number to be reduced by the number of the foster parents' own or adopted minor children residing in the home;

(b) No home otherwise meeting the standards shall be denied a license for the care of at least one child or single family of children.

(3) No foster family home for expectant mothers will be licensed for more than three expectant mothers.

(4) No foster family home for children shall be licensed for more than two children under two years of age, such number to be reduced by the number of licensee's own children of such age.

(5) No family home shall be licensed for the care of more than two persons suffering mental or physical handicaps of such severity as to require nursing care,

and then only if the licensee is qualified by training and/or experience to provide proper care and the person's treatment is under the supervision of a physician.

(6) No foster family shall be licensed for the care of more than two nonambulatory persons whether that condition is due to age or physical or mental impairment.

(7) No foster family home functioning as a crisis residential center shall be licensed for the care of more than four children, including the foster parents' own minor children residing on the premises. No more than two children requiring crisis care may be in care at the same time. All such homes shall be two-parent homes and one or the other of the foster parents shall not be employed outside the home.

(8) A foster family home may, for purposes of respite care, exceed the foster family home licensed capacity by receiving foster children from another licensed foster home.

(a) This section does not authorize care in excess of subsection (4) or (6) of this section relating to the care of infants or nonambulatory children.

(b) Exceeding capacity under authority of this section will only be possible so long as the requirements of WAC 388-73-310 (Fire safety), 388-73-108 (Bedrooms), and 388-73-054 (Client records and information—All agencies) are complied with for the larger number of children in care.

(c) Such an excess shall be permitted not more than three times in any calendar year and for not more than seventy-two hours.

(d) No foster home providing such care pursuant to this subsection shall exceed its licensing capacity by more than twice the number of persons for which the foster family has been licensed.

(e) Prior approval shall be obtained from the placing agency, if any, and if not, the person's or persons' parents or guardian or responsible relative.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-304, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-304, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-304, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-304, filed 9/8/78.]

**WAC 388-73-306 Foster parents/sponsors—Employment.** If both foster parents/sponsors in a two-parent home, or the single foster parent/sponsor in a one-parent home, are or is employed outside the home, the placing agency or department must give written approval. Such approval will be based on the needs of the persons under care. The foster family/sponsor(s) shall have sufficient regular income to maintain their own family without the board payments made for the persons in care.

This section is not applicable to foster family homes licensed as crisis residential centers.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-306, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-306, filed 9/8/78.]

**WAC 388-73-308 Absence from home.** (1) Foster parents/sponsors shall not place a person in another home temporarily or otherwise without the consent of the placing agency, if any, or of his/her parents or guardian or responsible relative.

(2) If it is necessary for the foster parents/sponsors to be absent overnight, the placing agency, if any, if not, the person(s) parents or guardian or responsible relative shall be notified and suitable arrangements made for care. Permission for persons under care to travel on extended trips with foster parents/sponsors shall be obtained from the placing agency, if any, or from parents or guardians or responsible relative.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-308, filed 9/8/78.]

**WAC 388-73-310 Fire safety.** (1) Every room used by persons under care, unless provided with two separate doors or one door leading directly to the outside, shall have a window of sufficient size and free of obstructions to be readily available for emergency escape or rescue. All such windows shall have a minimum net clear opening of 5.7 square feet. The minimum net clear opening height dimension shall be twenty-four inches. The minimum net clear opening width dimension shall be twenty inches. Such windows shall have a finished sill height not more than forty-four inches above the floor.

(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, heating and cooking appliances, and other similar products capable of igniting clothing shall not be left unattended or used in such a manner which could result in accidental ignition of clothing.

(9) All persons in care shall be instructed in emergency evacuation procedures and drills conducted at regular intervals to test and practice the procedure.

(10) There shall be readily available an approved 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 apply.)

(11) A smoke detector in working condition shall be located in proximity to the area or areas where persons under care sleep.

(12) If question arises concerning fire danger, the local fire protection authority shall be consulted.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-310, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-310, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-310, filed 9/8/78.]

**WAC 388-73-312 Family foster homes--Services to person under care.** (1) Foster parents/sponsors shall provide or arrange for such care and supervision as age and condition of the persons under care require.

(2) Opportunities for recreation shall be provided within the family group and persons in care shall be encouraged to participate in community activities in accord with the person's capacity for such experience.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-312, filed 9/8/78.]

**WAC 388-73-400 Day care providers.** The rules in WAC 388-73-400 through 388-73-490 apply exclusively to licensing of family day care homes, mini-day care programs and day care centers.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-400, filed 9/8/78.]

**WAC 388-73-402 Maximum hours--Rest periods.** (1) Children shall normally not remain in care in excess of ten hours per day except as is necessitated by the parent's working hours and travel time to and from the day care facility.

(2) Supervised rest periods shall be provided for all children under five years of age remaining in care in excess of six hours and for other children showing a need for rest. Children under two and one-half years of age shall be allowed to follow their own sleep schedules.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-402, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-402, filed 9/8/78.]

**WAC 388-73-403 Operating hours--Staff on premises.** (1) Operating hours of the center shall be specified on the application for licensing and shall be posted in a prominent place at the facility.

(2) A listing of staff and volunteers on duty shall be posted at a prominent place within the facility. During the operating hours set forth in the application, no person who is not a director, employee, or volunteer, other than a parent or custodian of a child under care (who may have unmonitored access to his or her own child or children), an employee of the department, or a law enforcement person shall have unmonitored access to the children placed within the care of the agency.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-403, filed 12/2/86.]

**WAC 388-73-404 Ill children.** Each child shall be observed for signs of illness each day. Children who are ill, tired or upset shall be given a chance to rest in a quiet area under frequent observation. Ill children need not be discharged home as a routine policy. They may be cared for during minor illness at the joint discretion of the parent and licensee. In the case of more severe

illness, the child shall be separated from the other children and properly attended until arrangements are made for return to his home.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-404, filed 9/8/78.]

**WAC 388-73-406 Nap and sleep equipment.** (1) A separate firm, clean bed, crib, play pen, cot, mat or mattress of sufficient size separated by at least thirty inches laterally and clean bedding shall be provided for each child under five years of age remaining in care for more than six hours, and for any other child requiring a nap or rest period. Sleep equipment and bedding shall be cleaned as necessary and between uses by different children. Infants shall be provided with cribs until at the discretion of the licensee and parent they can safely use a cot or mat. Cribs (infant beds or bassinets) shall not be placed over one another when in use. See also WAC 388-73-146(7) (cribs).

(2) Mats should be at least six inches longer than the child's height, twice as wide as the child's width at the shoulders, and thick enough to provide adequate comfort for the child to nap. Mats or moisture impervious mat covers must be able to be adequately cleaned between use by different children. For children five years of age and older, a sleeping bag meeting the definition of a mat may be used.

(3) Cot surface may be of plastic or canvas or other material which can be cleaned with a detergent solution and allowed to air dry.

(4) Bedding shall consist of an easily laundered sheet or blanket to cover the sleeping surface and a suitable washable covering for the child. In lieu of bedding, for children five years of age and older, a clean, washable, sleeping bag may be used. Each child's bedding shall be stored separate from bedding used by other children.

(5) The upper bunk of double deck beds are prohibited for use by preschool-age children and handicapped persons.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-406, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-406, filed 9/8/78.]

**WAC 388-73-408 Evening and nighttime care.** (1) A day care provider offering care during evening and nighttime hours shall adapt the program and equipment and plan for staffing to meet the physical and emotional needs of children away from their families at night.

(2) The child care staff to child ratio shall remain the same as during daytime care. During sleeping hours, all children shall be within visual range or listening distance of a staff member.

(3) Grouping of children shall be arranged so the sleeping children are not disturbed by the arrival or pickup of other children.

(4) Children in evening care shall be served a dinner that meets one-third of the 1980 recommended dietary allowances as set by the National Research Council, if not fed the dinner meal at home prior to arrival. All children present shall be offered a bedtime snack that

shall consist of two or more of the following items, allowed in age appropriate serving sizes: (refer to WAC 388-73-144 (5)(c)(i), (ii), (iii), (iv), and (v)). Children in nighttime care shall be served a breakfast that meets one-fourth of the recommended dietary allowances if they remain in care after the usual breakfast hour. See WAC 388-73-144 (nutrition).

[Statutory Authority: RCW 74.15.030, 80-13-019 (Order 1540), § 388-73-408, filed 9/9/80; 78-10-006 (Order 1336), § 388-73-408, filed 9/8/78.]

**WAC 388-73-409 Off-grounds trips.** Except in the event of a medical emergency, no child shall be removed from the premises of a day care center or mini-day care center by either the licensee or an employee or volunteer of the agency without the express written consent of the child's parent or custodian.

[Statutory Authority: RCW 74.15.030, 86-24-059 (Order 2445), § 388-73-409, filed 12/2/86.]

**WAC 388-73-410 Information to parents--Day care facilities.** The parent shall be supplied with the following information in written form: A typical daily schedule of activities; admission requirements and enrollment procedures; hours of operation; meals and snacks served; fees and payment plan; regulations concerning sick children; transportation arrangements and arrangements for trips, disciplinary policies, religious activities, (if any), action that will be taken in the event of a medical emergency; policies regarding the administration of medication; schools served and transportation available to the schools, nondiscrimination; and, if licensed for young children, policy on diapers and the labeling of foods. Parents shall have free access to all areas of day care facilities used by their children.

[Statutory Authority: RCW 74.15.030, 86-24-059 (Order 2445), § 388-73-410, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-410, filed 9/8/78.]

**WAC 388-73-412 Toddlers and preschool children.** The program for children who are walking but not yet in the first grade shall be planned to promote large muscle development, intellectual and social-emotional development and good health habits.

[Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-412, filed 9/8/78.]

**WAC 388-73-414 Attendance--Day care centers and mini-day care centers.** The parent, or other person authorized by the parent to take the child to or from the facility, shall sign the child in on arrival and out when leaving. When children leave the facility to attend school as authorized by the parents, a staff person shall sign them out when they leave and in when they return.

[Statutory Authority: RCW 74.15.030, 86-24-059 (Order 2445), § 388-73-414, filed 12/2/86.]

**WAC 388-73-420 Orientation and training--Family day care home.** Applicants and family day care licensees shall attend orientation and training programs provided, arranged or approved by the department.

[Title 388 WAC--p 286]

[Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-420, filed 9/8/78.]

**WAC 388-73-422 Capacity--Family day care home.** (1) No family day care home shall be licensed for more than six children; such number shall be reduced by the number of licensee's own children and foster children under twelve years of age who are on the premises.

(2) A family day care home may provide care for more than six children provided that:

(a) None of the additional children are in care for more than three hours; and

(b) In no event shall the total number of children under twelve years of age on the premises exceed ten; and

(c) Whenever there are more than eight children on the premises or whenever there are more than six children on the premises any of whom are under two years of age, the day care provider shall be assisted by a competent person who is at least sixteen years of age.

(3) No family day care home shall care for more than two children under two years of age, including the licensee's own and foster children under two years of age.

[Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-422, filed 9/8/78.]

**WAC 388-73-424 Family day care--Program and equipment.** (1) A variety of play equipment suitable to the ages of the child and suitable for such activities as climbing, pulling, pushing, and riding shall be provided. Equipment shall be constructed and maintained to minimize chances of accidents. Toys or other items which might be ingested by infants or which are otherwise hazardous to young children shall be removed from areas in which they are playing.

There shall be a variety of suitable indoor play equipment including, but not limited to, art materials, musical materials, and toys suitable for table-top play.

(2) Children shall be under close supervision of an adult and within easy hearing distance at all times. If the absence of the day care parent is necessary, the child must be left in charge of a competent adult. With written parental permission, school-age children may visit neighborhood friends and participate in community activities.

(3) The day care parent shall develop a planned program of both group and individualized activities with the day care parent playing an active role, as well as periods of free play, designed to promote the physical, mental, and social skills of the children under care.

(4) Adequate play space shall be available both indoors and outdoors. There shall be a minimum of thirty-five square feet per child of indoor play area available. The outdoor play area shall be fenced. The fence shall be at least four feet in height.

[Statutory Authority: RCW 74.15.030, 86-24-059 (Order 2445), § 388-73-424, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-424, filed 9/8/78.]

**WAC 388-73-426 Family day care--Fire safety.** Each family day care home shall comply with the fire safety requirements specified in WAC 388-73-310.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-426, filed 9/8/78.]

**WAC 388-73-430 Capacity--Limitations on ages and numbers--Mini-day care centers.** No mini-day care program shall be licensed for more than twelve children.

(1) During evening and nighttime hours and during the summer months or other extended school vacation period, such number shall be reduced by the number of licensee's own children and foster children under twelve years of age regularly on the premises.

(2) During the school year, such number shall be reduced by the number of licensee's own children and foster children of preschool age regularly on the premises.

(3) No mini-day care program shall care for more than four children under two years of age, including the licensee's and staff's own and foster children under two years of age on the premises.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-430, filed 9/8/78.]

**WAC 388-73-432 Staffing--Mini-day care program.** (1) At least two staff shall be present:

(a) Whenever more than two infants are under care; or

(b) Whenever more than six children, any of whom are under two years of age, are on the premises; or

(c) Whenever more than eight children, any of whom are under three years of age, are on the premises; or

(d) Whenever more than ten children are on the premises.

(2) Whenever there is only one staff member present, there shall be a second staff member readily available in case of an emergency.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-432, filed 9/8/78.]

**WAC 388-73-434 Qualifications of licensee--Mini-day care.** To obtain a license for a mini-day care program the applicant shall have completed at least two years of satisfactory service as a licensed family day care home, or have an equivalent amount of training in group care of preschool aged children, or have an equivalent combination of training and experience; and have completed or have a plan to complete within a reasonable time a course in early childhood development/education.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-434, filed 9/8/78.]

**WAC 388-73-436 Qualifications of child care staff--Mini-day care.** All child care staff shall be at least sixteen years of age, but in no case shall a person under eighteen be assigned sole responsibility for a group of children.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-436, filed 9/8/78.]

**WAC 388-73-438 Program and equipment--Mini-day care.** (1) Separate play areas shall be available for children who are under one year of age or not walking, and older children.

(2) A variety of suitable outdoor play equipment shall be available for such activities as climbing, pulling, pushing and riding. Equipment shall be constructed and maintained to minimize chances of accidents.

(3) There shall be a variety of suitable indoor play equipment including but not limited to art materials, musical materials and toys suitable for table-top play. Toys which might be ingested by infants or are otherwise hazardous to younger children shall be removed from areas in which they are playing.

(4) Children shall be under close supervision of an adult and within easy hearing distance at all times. If the absence of any staff member is necessary, the children must be left in the charge of a competent adult.

(5) With written parental permission, school-age children may visit neighborhood friends and participate in community activities.

(6) The applicant/licensee shall develop a planned program of both group and individualized activities with the providers of care playing an active role, as well as periods of free play, designed to promote the physical, mental and social skills of the children under care.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-438, filed 9/8/78.]

**WAC 388-73-440 Play areas--Mini-day care.** (1) Except for facilities providing strictly drop-in care, the facility shall have an appropriately equipped, safe outdoor play area directly adjoining the indoor facilities or which can be reached by a safe route and method approved by the department. The playground shall contain a minimum of seventy-five square feet per child. If programming is such that only a portion of the group uses the playground at one time, the size may be reduced correspondingly. The outdoor play area shall be fenced. The fence shall be at least four feet in height.

(2) Adequate indoor play space shall be available. Play, dining, and napping may be carried on in the same room (exclusive of bathrooms, kitchens, hallways, and closets), provided the room is of sufficient size, and programming is such that usage of the room for one purpose does not interfere with the usage for the room's other purposes. If cots and mats are removed when not in use, a minimum of thirty-five square feet per child is required. For children requiring cribs, the area used for play and napping shall contain a minimum of fifty square feet per child.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-440, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-440, filed 9/8/78.]

**WAC 388-73-450 Required personnel--Day care centers.** Each day care center shall have the following minimum staff:

(1) A director responsible for the overall management of the day care center's facility and its operation, and a program supervisor responsible for the planning and supervision of the child care and children's activities program. The director and program supervisor may be one and the same person if he or she is qualified for both positions. One or the other shall normally be on the



premises while children are in care and another competent person left in charge during their temporary absence.

(a) The director shall be at least twenty-one years of age and shall have the management and supervisory skills necessary for the proper administration of the day care center, including the maintenance of necessary records, the management of the agency's finances, and the maintenance of positive relationships with staff, parents, and the community as evidenced by appropriate references and on-the-job performance.

(b) The program supervisor shall be at least twenty-one years of age, and shall have a knowledge of child growth and development and techniques of guiding children's behavior and the ability to plan programs to meet the needs of the children served as evidenced by appropriate references and on-the-job performance. He or she shall have had at least two years successful experience working with children of the same age level as those served by the center and shall have completed forty-five college quarter credit hours in early childhood education/development or an equivalent educational background; or be a certified child development associate. For centers serving school-age children only, courses in education, recreation, or physical education may be substituted for the required training.

(c) The director and program supervisor may also serve as child care staff to the extent such role does not interfere with their management and supervisory responsibilities.

(2) Child care staff. Persons responsible for the direct care and supervision of the children and free of other duties while serving in such role, whether paid staff or volunteers, shall be provided for each group of children as follows:

(a) Number of child care staff:

Age of Children	Ratio of Staff to Children	Maximum Size of Group
1 month through 11 months	1:4	8
12 months through 29 months	1:7	14
30 months through 5 years	1:10	20
6 years and older	1:15	30

The above child care staff-to-child ratio shall be maintained both indoors and outdoors and on field trips. Children shall be grouped according to their ages as indicated above. Individual children may be included in different age groups based on their developmental levels. The department may approve reasonable variations related to the groupings and activities of the children as long as the children are adequately supervised and the total required number of staff is maintained; the staff-to-child ratio maintained is that ratio designated for the youngest child in such a mixed group. Such mixed groups shall be permitted for short portions of the day. During the children's rest periods the ratio shall be maintained, but child care staff may be involved in other activities so long as they remain on the premises and each child is within visual and auditory range of a staff member. During the children's waking hours, child care staff are to be physically present in the room where the

children are and no child or group of children are to be left at any time unattended. Children shall be in visual and auditory range of staff at all times except where a toilet trained child is using the toilet.

(b) Minimum staff on duty. At least two staff (at least one of whom is a child care staff) shall be present:

(i) Whenever more than six children, any of whom are under two years of age, are on the premises; or

(ii) Whenever more than eight children, any of whom are under three years of age, are on the premises; or

(iii) Whenever more than ten children are on the premises.

Whenever there is only one staff member present, there shall be a second staff member readily available in case of an emergency.

(c) Qualifications of child care staff. All child care staff shall be at least sixteen years of age, but in no case shall a person under eighteen be assigned sole responsibility for a group of children.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-450, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-450, filed 9/8/78.]

**WAC 388-73-452 Program--Day care centers.** The agency shall implement a program designed to meet the developmental needs of the various age groups served and in consideration of the cultural and other particular needs of individual children or groups of children. The program shall provide for a balance between free play and organized activities, between individual play and the sharing of experiences among children; and shall promote individual contact between staff and child. There shall be a reasonable regularity of activities from day to day, but allowance shall be made for a variety of special events. Children of all ages shall spend a portion of the day outdoors, weather permitting. Each day care facility shall have a program plan evidenced by a written daily schedule and periodic staff meetings for planning purposes.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-452, filed 9/8/78.]

**WAC 388-73-454 Toddlers and preschool children--Day care centers.** Ambulatory children between one year and two and one-half years of age may be grouped with older children during their waking hours provided that the total number of children to a group does not exceed ten and two staff members are assigned to the group.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-454, filed 9/8/78.]

**WAC 388-73-458 Furnishings and equipment--Day care centers.** (1) Furniture shall be safe, durable, easily cleaned, and child-sized or appropriately adapted for ages of children served. Equipment shall be sturdy, well-constructed, in good condition, safe and free of sharp, loose or pointed parts. Furniture and equipment shall not block exits.

(2) The center shall provide equipment of sufficient quantity and variety to carry out the required program

and to provide every child with the opportunity for physical and intellectual development. The selection of equipment shall provide opportunities for play alone or in groups and there shall be an appropriate number of materials from each of the following categories: Art supplies, blocks and accessories, books, housekeeping furniture and props, manipulative toys, musical instruments, science materials, water play supplies, props for dramatic play, and large muscle equipment.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-458, filed 9/8/78.]

**WAC 388-73-460 Play areas--Day care centers.** The requirements for play areas specified for mini-day care centers in WAC 388-73-440 also apply to day care centers.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-460, filed 9/8/78.]

**WAC 388-73-500 Day treatment center.** The rules in WAC 388-73-500 through 388-73-550 apply exclusively to licensing day treatment centers.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-500, filed 9/8/78.]

**WAC 388-73-502 Function of day treatment program.** A day treatment program is an integrated educational and therapeutic group experience provided during part of the twenty-four hour day, usually throughout the five day week, for the emotionally disturbed child who does not require twenty-four hour residential care but who is unable to adjust to school programs because of disruptive behavior, family stress, learning disability or other serious emotional handicaps and/or who for similar reasons is unable to profit substantially from "outpatient" child guidance clinic services and related programs.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-502, filed 9/8/78.]

**WAC 388-73-504 Personnel.** A day treatment program shall have the following staff:

(1) A director responsible for the overall management of the agency's facilities and operation, and a program supervisor responsible for the implementation and supervision of the agency's child care and treatment program. The director and the program supervisor may be one and the same person if he or she is qualified for both positions. One or the other shall normally be on the premises while the children are in care and another competent person left in charge during the director's and/or program supervisor's temporary absence.

(a) The director shall be at least twenty-one years of age and shall have the management and supervisory skills necessary for the proper administration of the agency, including the maintenance of necessary records, the management of the agency's finances and the maintenance of positive relationship with staff, parents, and the community as evidenced by appropriate references and on-the-job performance.

(b) The program supervisor shall be at least twenty-one years of age and shall have a knowledge of child growth and development, the origin and treatment of deviant behavior, techniques of guiding children's behavior and the ability, in conjunction with the director, board, and other staff, to implement programs to meet the needs of the children served. He or she shall have at least a masters degree in social work, clinical psychology or closely related field.

(2) Psychiatrist - The agency shall receive regular consultation from a child psychiatrist.

(3) Psychologist - The agency shall provide or arrange for the services of a psychologist for the administration of psychological testing and related services if these services are not provided by the accredited school where the child is regularly enrolled.

(4) Teaching staff - The agency shall provide or arrange for teaching by certified teachers qualified by training or experience in remedial education.

(5) Group counselors - Group counselors shall be persons qualified by training or by experience in the care of disturbed children.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-504, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-504, filed 9/8/78.]

**WAC 388-73-506 Ratio of counselor and teaching staff to children.** There shall be sufficient group counselors and teachers that the children are normally in groups of no more than six under the supervision of one or the other of such staff.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-506, filed 9/8/78.]

**WAC 388-73-508 Program.** The agency shall submit a detailed written program description for departmental approval outlining the educational, recreational, and therapeutic services to be provided to the child and his family and a sample of the schedule of daily activities for persons in care.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-508, filed 9/8/78.]

**WAC 388-73-510 Ill children.** The requirements for care of ill children specified for day care providers in WAC 388-73-404 also apply to day treatment programs.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-510, filed 9/8/78.]

**WAC 388-73-512 Play areas.** The requirements for play areas specified for mini-day care programs and day care centers in WAC 388-73-440 also apply to day treatment programs.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-512, filed 9/8/78.]

**WAC 388-73-600 Group care facilities.** The rules in WAC 388-73-600 through 388-73-650 apply exclusively to licensing of group care facilities.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-600, filed 9/8/78.]

**WAC 388-73-602 Function of group care facility.** A group care facility normally serves children 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 388-73-604 Daily activity program.** Except for juvenile detention facilities the agency shall submit a detailed written program description for departmental approval outlining the recreational and therapeutic services to be provided to the child and his or her family, and a schedule of typical daily activities for persons in care.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-604, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-604, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-604, filed 9/8/78.]

**WAC 388-73-606 Required positions.** An agency shall provide staff in accordance with the following requirements:

(1) A director 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 388-73-608 Nursing service.** Group care facilities having as their major purpose the care of chronically ill or severely handicapped children shall make arrangements for regular nursing consultation, including at least one weekly on-site visit, by a registered nurse currently licensed by the state of Washington. His/her name, address, and telephone number shall be readily available. The nurse shall assist the agency in implementing a program which provides for periodic health supervision of all children and for follow-up care of special health needs as identified by the child's physician or noted by agency personnel. The nurse shall advise and assist nonmedical personnel in maintaining medical records, meeting daily health needs and caring for children with minor illnesses and injuries.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-608, filed 9/8/78.]

**WAC 388-73-610 Required rooms, areas, and equipment—Group care facilities.** There shall be rooms and areas of sufficient size and properly equipped to accommodate the number of children served. The following rooms or areas shall be provided:

(1) Living room. There shall be at least one comfortably furnished living room. (This subsection is not applicable to juvenile detention facilities.)

(2) Dining area. An attractive dining area shall be provided of sufficient capacity to accommodate the group comfortably. (This subsection is not applicable to juvenile detention facilities.)

(3) Staff quarters. Rooms for staff on night supervision shall be separate from but in proximity to the sleeping rooms of the children. (This subsection is not applicable to juvenile detention facilities.)

(4) Recreation area. When there are more than twelve occupants, at least one separate indoor area shall be provided, sufficient in size and location, for recreational and informal education activities.

(5) Offices. There shall be a room or area that can be used as an administrative office. Suitable offices shall be provided for social service staff. In facilities caring for fewer than thirteen children, such offices may be combined with the administrative office.

(6) Visiting area. There shall be space provided where privacy can be achieved for the use of visitors.

[Statutory Authority: RCW 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 388-73-700 Maternity services.** The rules in WAC 388-73-700 through 388-73-750 apply exclusively to the licensing of an agency providing or arranging maternity service.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-700, filed 9/8/78.]

**WAC 388-73-702 Types of maternity services.** (1) Day programs for mothers. A day program provides pregnant or delivered young women training in child care, help with adjustment problems, counseling and social planning, infant care as needed, and academic or vocational training as appropriate during part of the twenty-four-hour day in a facility suitable for such purposes.

(2) Child-placing agencies. The placement of pregnant children and adults and mothers with infants in properly licensed foster family homes.

(3) Residential care for expectant mothers (maternity home). A maternity home serves as a group living facility to provide residential care and treatment on a twenty-four-hour basis to expectant unmarried mothers during the period of their pregnancy and the immediate postpartum period.

(4) Residential care for mothers and infants. Residential care for a group of mothers and their infants provides a group living facility on a twenty-four-hour basis, guidance, family life education, and child care for residents needing it, and academic and/or vocational training when appropriate. The care provided infants in the absence of their mother shall meet the applicable standards of chapter 388-73 WAC unless the care is exempt by virtue of RCW 74.15.020 (4)(a) through (k).

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-702, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-702, filed 9/8/78.]

**WAC 388-73-704 Daily activities program.** The agency shall submit a detailed written program description for departmental approval outlining the educational, recreational, and therapeutic services to be provided to persons in care, a schedule of typical daily activities for persons in care, and a statement of religious practices, if any.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-704, filed 9/8/78.]

**WAC 388-73-706 Eligibility for service—Required services.** (1) Eligibility for service shall not be contingent upon a parent's decision to keep or relinquish her child.

(2) Services required herein need not necessarily be provided directly by the licensee in each instance. However, if not provided directly, it is the responsibility of the licensee to arrange for such services through formal agreements with other community resources or to otherwise assist mothers in the program to obtain appropriate and needed services.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-706, filed 9/8/78.]

**WAC 388-73-708 Required personnel.** (1) A director, at least twenty-one years of age and a mature person especially equipped by training, experience, and personal qualities to insure an effective program, staff development, and efficient administration shall be employed. The director must possess an understanding of the program to be administered and have demonstrated such leadership and supervisory ability as will insure harmonious relationships and effective performance of agency personnel.

(2) Consultants. Consultants in mental health, education, religion, and law shall also be available as needed for work with agency staff, as well as with the parent. Consultants used by the agency shall meet the full requirements of professional competence in the consultants' respective fields.

(3) Residential staff. Residential programs providing twenty-four hour care to expectant mothers or to mothers and their infants shall employ residential staff in sufficient numbers to insure the physical and emotional needs of the residents are met. Residential staff are staff in charge of supervision of the day-to-day living situation. Such staff may carry out maintenance tasks not detracting from the staff's primary function.

(a) Residential staff shall be on duty in a ratio of one such staff to every eight mothers or major fraction thereof. When more than eight mothers are on the premises, at least two adults (including at least one residential care staff) shall be on duty. Additional staff may be required under certain circumstances, as required by the department.

(b) On duty staff may include persons sleeping on the premises but are available to the residents as needed during the nighttime hours. In homes caring for fewer than ten persons, at least one staff shall be physically present with an additional person available "on call" at all times.

(4) Relief staff. Sufficient relief staff shall be available to allow all staff the equivalent of two days off a week.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-708, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-708, filed 9/8/78.]

**WAC 388-73-710 Guidance and counseling.** (1) All maternity service programs shall provide information and referral service and guidance and counseling to every person who applies for care.

(2) Guidance and counseling may take the form of individual or group counseling sessions. Areas to be included are: Living arrangements, medical care planning, legal services, vocational or educational guidance, plans for the child, financial, emotional or psychological problems, relations with parents and unwed father and follow-up for those leaving the program.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-710, filed 9/8/78.]

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**WAC 388-73-712 Health education.** All maternity service programs shall make provisions for skilled instruction in the nature and need for postnatal and pediatrics care, contraception, nutritional requirements for mother and child, child health and development, and, for expectant mothers, the hygiene of pregnancy, suitable preparation for childbirth, the physiological changes which occur, the events and procedures used in examination, and childbirth.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-712, filed 9/8/78.]

**WAC 388-73-714 Family life education.** All maternity service programs shall provide or arrange for classes in family life. Examples of such services are: Home management and consumer education, child-rearing techniques, and family planning.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-714, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-714, filed 9/8/78.]

**WAC 388-73-716 Leisure time activities.** Programs shall be planned so that leisure time is used creatively, to accommodate the need for privacy when required and permit sufficient physical exercise to retain satisfactory body conditioning. Programs for mothers and infants must afford mothers some leisure time apart from their children as well as time with their children.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-716, filed 9/8/78.]

**WAC 388-73-718 Child care.** Programs serving parents with children have the responsibility for providing or assisting the parent in arranging for child care when parents are working or in school and at other appropriate times. Provisions shall be made for maximum interaction between mother and child in the child care arrangement. The child care facility, whether within the agency or without, shall meet the appropriate licensing requirements for day care facilities.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-718, filed 9/8/78.]

**WAC 388-73-720 Medical service.** (1) Each expectant mother and mother and infant shall be under the medical supervision of a physician.

(2) Consultation by specialists shall be provided when requested by the physician.

(3) For expectant mothers:

(a) Deliveries shall be in a licensed hospital or approved birthing facility. The length of hospitalization shall depend upon the mother's physician and the facilities and nursing care available in the maternity home.

(b) Postpartum medical examinations shall be provided at the end of six weeks and earlier, if indicated. An entry shall be made in mother's record to indicate the date of the postpartum examination and name of the examining physician. If a postpartum examination is not provided, the record should indicate the reasons.

(c) No expectant mother who has a known or suspected infectious disease shall be admitted or retained in group care.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-720, filed 9/8/78.]

**WAC 388-73-722 Required rooms, areas, equipment.** (1) The required rooms, areas and equipment specified for group care facilities in WAC 388-73-610 apply to maternity homes and also residential care for mothers and infants.

(2) The required rooms, areas and equipment specified for group care facilities in WAC 388-73-610 except for living rooms, dining areas, staff quarters and recreational areas, also apply to day programs for mothers.

(3) Facilities for medical and nursing care. In agencies in which medical clinics are held, there shall be a separate adequately equipped examination room. Adequate nursing equipment shall be provided as necessary.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-722, filed 9/8/78.]

**WAC 388-73-800 Crisis residential centers.** The rules in WAC 388-73-800 through 388-73-820 apply exclusively to crisis residential centers. The crisis residential center may, in addition to being licensed as such, also be licensed as a family foster home or as a group care facility and may house juveniles assigned for regular foster family care or group care as well as juveniles receiving temporary protective care.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-800, filed 9/10/79.]

**WAC 388-73-802 Limitations on number of facilities.** Crisis residential centers will be licensed as such at the discretion of the department as determined by the need for such a facility in the area in which the facility will be located and moneys appropriated for such purposes.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-802, filed 9/10/79.]

**WAC 388-73-804 Hours of operation.** Intake shall be open twenty-four hours a day, seven days a week.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-804, filed 9/10/79.]

**WAC 388-73-810 Group crisis residential centers.** All requirements applicable to group care facilities unless otherwise indicated by the text, are also applicable to regional crisis residential centers and to crisis residential centers operated as part of a licensed group care facility.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-810, filed 9/10/79.]

**WAC 388-73-820 Family crisis residential centers.** All requirements applicable to foster family homes, unless otherwise indicated in the text, are also applicable to crisis residential centers operated in a foster family.

(1986 Ed.)

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-820, filed 9/10/79.]

**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 388-73-072 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**

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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.

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(2) Swimming and other pools shall be inaccessible to residents 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) [(3)] 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.

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(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 388-80 WAC MEDICAL CARE--DEFINITIONS

WAC

388-80-002      Applicability.  
388-80-005      Definitions.

**WAC 388-80-002 Applicability.** These rules are immediately applicable to determinations of eligibility under the medical care program enacted by Substitute Senate Bill No. 4299, effective July 1, 1981.

[Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-80-002, filed 7/29/81.]

**WAC 388-80-005 Definitions.** (1) "Application" shall mean a written request for medical assistance or limited casualty program from the applicant, an authorized representative, or if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant to the department of social and health services the application shall be on a form prescribed by the department.

(2) "Assignment" is the method by which the provider receives payment for services under Part B of Medicare.

(3) "Assistance unit" means a person or members of a family unit who are eligible for cash or medical assistance under a federally matched program including state supplement.

(4) "Authorization" means an official approval of a departmental action.

(5) "Beneficiary" is an eligible individual who receives a federal cash benefit and/or state supplement under Title XVI.

(6) "Benefit period" is the time period used in determining whether Medicare can pay for covered Part A services. A benefit period begins the first day a beneficiary is furnished inpatient hospital or extended care services by a qualified provider. It ends when the beneficiary has not been an inpatient of a hospital or other facility primarily providing skilled nursing or rehabilitation services for sixty consecutive days. There is no limit to the number of benefit periods a beneficiary can have.

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(7) "Cabulance" means a vehicle designed and used for the purpose of transporting persons confined to a wheelchair or persons otherwise physically restricted.

(8) "Carrier" is an organization who has a contract with the federal government to process claims under Part B of Medicare.

(9) "Categorically needy" refers to a resident of the state of Washington whose income and resources are evaluated for cash assistance and who is:

(a) Receiving or eligible to receive cash assistance.

(i) Aid to families of dependent children (AFDC).

(ii) Supplemental Security Income (SSI), including grandfathered individuals and individuals with essential spouses.

(iii) State supplement.

(iv) Special categories.

(b) A financially eligible person under twenty-one who would be eligible for AFDC but does not qualify as a dependent child and who is in:

(i) Foster care, or

(ii) Subsidized adoption, or

(iii) A skilled nursing home, intermediate care facility, or intermediate care facility for mentally retarded, or

(iv) An approved inpatient psychiatric facility.

(c) Individuals who would be eligible for cash assistance except for their institutional status.

(d) An individual who is SSI categorically related and would not be eligible for cash assistance if they were not institutionalized and whose gross income does not exceed the three hundred percent SSI benefit cap. This includes only aged, blind, and disabled groups.

(10) "Central disbursements" is a state office section which audits non-Medicaid medical claims for payment.

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

(12) "CFR" means the code of federal regulations and is a codification of the general and permanent rules published in the federal register by the executive departments and agencies of the federal government.

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

(14) "Client" means an applicant for or recipient of financial and/or social services provided by the department of social and health services.

(15) "Coinsurance" means the portion of reimbursable hospital and medical expenses, after subtraction of any deductible, which Medicare does not pay. Under Part A, coinsurance is a per day dollar amount, and under Part B, is twenty percent of reasonable charges.

(16) "CSO" (community service office) is an office of the department which administers the various social and health services at the community level.

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

(18) "Copayment" means a fixed dollar amount that is the responsibility of the recipient of specified services.

(19) "Deductible" means an initial specified amount that is the responsibility of the applicant and/or recipient.

(a) Part A of Medicare – Inpatient hospital deductible – an initial amount in each benefit period which Medicare does not pay.

(b) Part B of Medicare – The first sixty dollars in expenses which must be incurred before Medicare starts to pay.

(c) Limited casualty program—medically indigent—means incurring a dollar amount as specified in chapter 388-100 WAC, the department does not pay.

(20) "Delayed certification" shall mean the date of certification for Medicaid and date of application for SSI are the same for an SSI beneficiary whose eligibility decision was delayed due to administrative action.

(21) "Department" shall mean the state department of social and health services.

(22) "Division of medical assistance" shall mean the single state agency authorized to administer the Title XIX medical assistance program.

(23) "Eligible couple" means an eligible individual and eligible spouse.

(24) "Eligible individual" means an aged, blind or disabled person as defined in Title XVI of the Social Security Act. If two such persons are husband and wife (and have not been living apart for more than six months), only one of them may be considered an eligible individual.

(25) "EPSDT" shall mean a program providing early and periodic screening, diagnosis and treatment to persons under twenty-one years of age who are eligible under Title XIX of the Social Security Act.

(26) "Essential spouse" means a spouse whose needs were taken into account in determining the need of OAA, AB, or DA recipient for December, 1973, who continues to live in the home of such recipient, and continues to be an essential spouse.

(27) "Extended care patient" is a recently hospitalized Medicare patient who needs relatively short-term skilled nursing and rehabilitative care in a skilled nursing facility.

(28) "Fair hearing" means an administrative proceeding by which the department hears and decides the appeal of an applicant/recipient from an action or decision of the department.

(29) "Federal aid" means the assistance programs for which the state receives matching funds from the federal government.

(30) "Fraud" shall mean a deliberate, intentional, and wilful act, with the specific purpose of deceiving the department with respect to any material, fact, condition, or circumstances affecting eligibility or need.

(31) "General assistance – continuing" (GAU) means assistance to unemployable persons who are not eligible for or not receiving federal aid assistance and whose medical care is defined in chapter 388-86 WAC.

(32) "Grandfathering" refers to:

(a) A noninstitutionalized individual who meets all current requirements for Medicaid eligibility except the criteria for blindness or disability; and

(i) As eligible for Medicaid in December, 1973, as blind or disabled, whether or not he/she was receiving cash assistance in December, 1973; and

(ii) For each consecutive month after December, 1973, continue to meet the criteria for blindness and disability and other conditions of eligibility used under the Medicaid plan in December, 1973; and

(iii) The needs of the "essential person" shall only be considered when he/she is living with such person in the same household.

(b) An institutionalized individual who was eligible for Medicaid in December, 1973, or any part of that month, as an inpatient of a medical institution or resident of intermediate care facility that was participating in the Medicaid program and for each consecutive month after December, 1973:

(i) Continued to meet the requirements for Medicaid eligibility that were in effect under the state's plan in December, 1973, for institutionalized individuals; and

(ii) Remained institutionalized.

(33) "Home health agency" is an agency or organization certified under Medicare to provide skilled nursing and other therapeutic services to the patient in his/her place of residence.

(34) "Hospital" shall mean any institution licensed as a hospital by the official state licensing authority.

(35) "Institution" shall mean an establishment which furnishes food and shelter to four or more persons unrelated to the proprietor and, in addition provides medically related services and medical care. This would include hospitals, skilled nursing facilities, intermediate care facilities, and institutions for the mentally retarded, but does not include correctional institutions.

(36) "Intermediary" is an organization who has an agreement with the federal government to process Medicare claims under Part A.

(37) "Intermediate care facility" shall mean a licensed facility certified to provide intermediate care for which an agreement has been executed.

(38) "Intermediate care facility/IMR" shall mean a state institution or a licensed nursing home either of which has been certified by state office (SO) as meeting the CFR regulations to provide twenty-four hour health-related care and services to mentally retarded persons or persons with related conditions.

(39) "Legal dependents" are persons whom an individual is required by law to support.

(40) "Limited casualty program" means a medical care program for medically needy as defined in chapter 388-99 WAC, and for medically indigent as defined in chapter 388-100 WAC.

(41) "Medicaid" or "medical assistance" (MA) shall mean the federal aid Title XIX program under which medical care is provided to:

(a) Categorically needy as defined in chapter 388-82 WAC.

(b) Medically needy as defined in chapters 388-92 and 388-99 WAC.

(42) "Medical care services" means the limited scope of care financed by state funds and provided to general assistance recipients.

(43) "Medical consultant" shall mean a physician employed by the department at the CSO level.

(44) "Medical facility." See "institution."

(45) "Medically necessary" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective more conservative or substantially less costly course of treatment available or suitable for the recipient requesting the service. For the purpose of this section "course of treatment" may include mere observation or, where appropriate, no treatment at all.

(46) "Medicare" is a commonly used term for the federal government health insurance program for certain aged or disabled recipients under Titles II and XVII of the Social Security Act.

(47) "Month of application" shall mean the calendar month in which the application is filed unless it is filed in the last ten days of that month; then the month of application may be the following month.

(48) "Nursing care consultant" shall mean a qualified and licensed registered nurse employed by the bureau of nursing home affairs who is centrally supervised, but stationed in CSO's.

(49) "Outpatient" is a nonhospitalized patient receiving care in an outpatient or emergency department of a hospital, or away from a hospital such as in a physician's office or the patient's own home or a nursing home.

(50) "Part A" is the hospital insurance portion of Medicare.

(51) "Part B" is the supplementary medical insurance benefit (SMIB) or the "doctor's portion" of Medicare.

(52) "PAS" - professional activity study is a compilation of inpatient hospital data by diagnosis and age, conducted by the commission of professional and hospital activities, which resulted in the determination of an average length of stay for patients. These data were published in a book entitled "Length of Stay in PAS Hospitals, Western." The department has adopted this book as the basis for authorizing payment for the maximum number of inpatient hospital days for recipients of state-funded programs, or where no memorandum of understanding with a PSRO exists.

(53) "Patient transportation" means the transportation of recipients to and from medical services covered under the medical assistance program.

(54) "Physician" is a doctor of medicine, osteopathy, or podiatrist who is legally authorized to perform the functions of his profession by the state in which he performs them.

(55) "Professional standards review organization" (PSRO). See "Washington state professional standards review organization."



(56) "Provider" or "provider of service" means an institution, agency, or individual who has a signed agreement to furnish medical care and goods and/or services to recipients and who is eligible to receive payment from the department.

(57) "Provider services" shall mean the office of the division of medical assistance which processes claims for payment under Title XIX and state-funded programs.

(58) Residence, state of means:

(a) The state where the applicant/recipient is living with the intent to remain there permanently or for an indefinite period;

(b) The state which he/she entered with a job commitment or to seek employment, whether or not currently employed;

(c) The state making a state supplementary payment;

(d) The state making placement in an out-of-state institution;

(e) The state of the parents or legal guardian, if one has been appointed, of an institutionalized individual who is under age twenty-one or is age twenty-one or over and who became incapable of determining residential intent before age twenty-one;

(f) The state where the person over age twenty-one judged to be legally incompetent is living.

(59) "Retroactivity" means: The period of no more than three months prior to month of application to an otherwise eligible individual under the Federal aid Title XIX medical assistance program.

(60) "Skilled nursing facility," unless otherwise described, shall mean any institution or facility licensed by the department as a nursing home, or is a nursing home unit of a hospital licensed by the state department of social and health services and is certified, and has an agreement to provide skilled nursing home care.

(61) "Spell of illness." See "benefit period."

(62) "Spend down" means the individual incurs medical expenses to reduce income to the financial standards established by the department.

(63) "Spouse"

(a) "Eligible spouse" means an aged, blind or disabled individual who is the husband or wife of an eligible individual and who has not been living apart from such eligible individual for more than six months.

(b) "Ineligible spouse" means the husband or wife of an eligible individual who is not aged, blind or disabled; or who although aged, blind or disabled has not applied for such assistance.

(c) "Nonapplying spouse" means the husband or wife of an eligible individual who although aged, blind or disabled has not applied for such assistance.

(64) "State office" or "SO" shall mean the division of medical assistance of the department.

(65) "Supplementary payment" means the state money payment to individuals receiving benefits under Title XVI (or who would, but for their income, be eligible for such benefits) as assistance based on need in supplementation of SSI benefits. This payment includes:

(a) "Mandatory state supplement" means the state money payment with respect to individuals who, for December, 1973, were recipients of money payments

under the department's former programs of old age assistance, aid to the blind and disability assistance.

(b) "Optional state supplement" means the elected state money payment to individuals eligible for SSI benefits or who except for the level of their income would be eligible for such benefits.

(66) "Supplemental security income (SSI) program, Title XVI," means the federal program of supplemental security income for the aged, blind, and disabled established by section 301 of the social security amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).

(67) "Third party" means any entity that is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of Medicaid.

(68) "Washington state professional standards review organization" (WSPSRO) is the state level organization responsible for determining whether health care activities are medically necessary, meet professionally acceptable standards of health care, and are appropriately provided in an outpatient or institutional setting for beneficiaries of Medicare and recipients of Medicaid and maternal and child health.

[Statutory Authority: RCW 74.08.090, 83-17-006 (Order 1996), § 388-80-005, filed 8/5/83; 82-10-062 (Order 1801), § 388-80-005, filed 5/5/82; 82-06-003 (Order 1766), § 388-80-005, filed 2/18/82; 82-01-001 (Order 1725), § 388-80-005, filed 12/3/81; 81-16-033 (Order 1685), § 388-80-005, filed 7/29/81; 81-11-046 (Order 1655), § 388-80-005, filed 5/20/81; 80-13-020 (Order 1542), § 388-80-005, filed 9/9/80; 80-02-001 (Order 1470), § 388-80-005, filed 1/3/80; 78-06-081 (Order 1299), § 388-80-005, filed 6/1/78; Order 1196, § 388-80-005, filed 3/3/77; Order 1112, § 388-80-005, filed 4/15/76; Order 1061, § 388-80-005, filed 10/8/75; Order 922, § 388-80-005, filed 4/15/74; Order 761, § 388-80-005, filed 1/2/73; Order 735, § 388-80-005, filed 11/22/72; Order 676, § 388-80-005, filed 5/10/72; Order 615, § 388-80-005, filed 10/7/71; Order 564, § 388-80-005, filed 5/19/71; Order 577, § 388-80-005, filed 7/20/71; Order 471, § 388-80-005, filed 8/19/70; Order 381, § 388-80-005, filed 8/27/69; Order 298, § 388-80-005, filed 9/6/68; Order 264 (part), § 388-80-005, filed 11/24/67.]

## Chapter 388-81 WAC

### MEDICAL CARE--ADMINISTRATION--GENERAL

#### WAC

388-81-005	Medical care program.
388-81-010	Civil rights.
388-81-015	Institution of control.
388-81-020	Vendor reports—Collection and analysis of statistical data.
388-81-025	Eligibility—General.
388-81-030	Case exception.
388-81-035	Confidential records.
388-81-040	Fair hearing.
388-81-042	Fair hearing—Provider.
388-81-043	Dispute conference—Provider.
388-81-044	Interest penalties—Providers.
388-81-050	Restitution.
388-81-052	Receipt of resources without giving adequate consideration.
388-81-055	Fraud.
388-81-060	Supplementary medical insurance "buy in."

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

388-81-045 Procedure prior to fair hearing. [Order 264 (part), § 388-81-045, filed 11/24/67.] Repealed by Order 299, filed 9/6/68.

**WAC 388-81-005 Medical care program.** The department of social and health services provides a medical care program, administered through the division of medical assistance, designed to meet the health care needs of eligible individuals who have been determined eligible as defined in chapters 388-82, 388-99, and 388-100 WAC.

[Statutory Authority: RCW 74.08.090, 81-16-033 (Order 1685), § 388-81-005, filed 7/29/81; 81-10-014 (Order 1646), § 388-81-005, filed 4/27/81; 80-13-020 (Order 1542), § 388-81-005, filed 9/9/80; Order 1233, § 388-81-005, filed 8/31/77; Order 833, § 388-81-005, filed 7/26/73; Order 264 (part), § 388-81-005, filed 11/24/67.]

**WAC 388-81-010 Civil rights.** The department will assure that all participating providers will not discriminate in providing approved services to any applicant or recipient because of race, creed, color, handicap, or national origin, nor will they discriminate against any employee or applicant for employment because of race, creed, color, handicap, or national origin, except to the extent permitted by a bona fide occupational qualification.

[Statutory Authority: RCW 74.08.090, 79-01-002 (Order 1359), § 388-81-010, filed 12/8/78; Order 1233, § 388-81-010, filed 8/31/77; Order 264 (part), § 388-81-010, filed 11/24/67.]

**WAC 388-81-015 Institution of control.** The department shall establish and enforce such administrative controls as may be necessary to prevent abuses by vendors or recipients including, but not limited to, determination of need for and duration of services, assurance of justification of services, reasonableness of costs, and operation of the program within the limits of the legislative appropriation.

(1) The department shall conduct audits and investigations of providers of medical and other services provided as authorized by chapter 74.09 RCW to determine compliance with the rules and regulations of the program.

(a) In the conduct of such audits or investigations, the secretary or his authorized representative may examine only those records or portion thereof including patient records pertaining to services rendered by a health care provider and reimbursed by the department. Copies of, but no original records shall be removed from the premises of the health care provider. The secretary shall destroy all copies of recipient medical records made during an audit or investigation. This destruction will take place no later than ninety days after the point when no further actions can be taken or are going to be taken either by the department, the provider or the courts on a particular audit, investigation or proceeding. The provider will be notified in writing that such destruction has taken place.

(b) The department shall give twenty days notice to providers that his/her patient medical records are to be

audited for compliance with program rules and standards. This notice provision shall not apply to investigations of providers for fraudulent or abusive practices. Such notice shall not include names of patient files which are to be reviewed. For the purpose of this provision, prescriptions or records of drugs dispensed are not to be defined as patient medical records.

(c) The department shall work with the provider to minimize inconvenience and disruption of health care delivery.

(2) Based upon the findings of an audit, investigation or other proceeding, the secretary or his authorized representative may order repayment of excess benefits or payments received by the provider, plus interest on the amount of excess benefits and assess civil penalties as provided for in chapter 74.09 RCW. Civil penalties shall be assessed in an amount not to exceed three times the amount of excess benefits or payments received by the provider.

(3) Whenever the department imposes a civil penalty or suspends or terminates a provider from the program, it shall give written notice of the action taken to the appropriate licensing agency and/or disciplinary board. The department may refer to the appropriate disciplinary board providers who have demonstrated a significant noncompliance with the provisions of the medical care program through the results of an audit, investigation or utilization review function. The Washington state medical disciplinary board shall generally serve in an advisory capacity to the secretary in the conduct of audits or investigations of physicians.

(4) The secretary or his authorized representative shall refer all cases to the appropriate prosecuting authority for possible criminal action where the department finds substantial evidence supporting a finding of fraud. Prima facie evidence does not in itself provide a substantial basis for criminal prosecution.

[Statutory Authority: RCW 74.08.090, 80-13-020 (Order 1542), § 388-81-015, filed 9/9/80; Order 264 (part), § 388-81-015, filed 11/24/67.]

**WAC 388-81-020 Vendor reports—Collection and analysis of statistical data.** (1) When requested by the division, full reports of goods furnished and services rendered shall be submitted to the department by all vendors under the program in the manner specified. The department shall provide the vendor with standardized forms to report these data.

(2) Data collected by the department in this manner shall be tabulated and analyzed to secure statistics on costs of and the services rendered in the various phases of the program. Tabulations and analyses so prepared shall be available to the department's advisory committee, state welfare medical care committee, official organizations of vendor groups participating in the program, and other appropriate individuals or groups.

[Order 264 (part), § 388-81-020, filed 11/24/67.]

**WAC 388-81-025 Eligibility—General.** (1) Financial eligibility is established when the department certifies that the applicant meets the appropriate financial

requirements in chapter 388-83, 388-92, 388-99 or 388-100 WAC.

(2) The department shall be responsible for payment of medical care provided within the scope of the program to eligible persons.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-81-025, filed 12/3/81; 81-16-033 (Order 1685), § 388-81-025, filed 7/29/81; 81-10-014 (Order 1646), § 388-81-025, filed 4/27/81; 80-13-020 (Order 1542), § 388-81-025, filed 9/9/80; Order 1112, § 388-81-025, filed 4/15/76; Order 472, § 388-81-025, filed 8/19/70; Order 299, § 388-81-025, filed 9/6/68; Order 264 (part), § 388-81-025, filed 11/24/67.]

**WAC 388-81-030 Case exception.** A request for an exception to policy for medical care services denied by strict application of a rule or regulation requires approval by the division of medical assistance, the single state agency for administering Title XIX. See WAC 388-20-020 for exception to policy procedures.

[Statutory Authority: RCW 74.08.090. 82-17-072 (Order 1868), § 388-81-030, filed 8/18/82; 80-13-020 (Order 1542), § 388-81-030, filed 9/9/80; Order 1112, § 388-81-030, filed 4/15/76; Order 299, § 388-81-030, filed 9/6/68; Order 264 (part), § 388-81-030, filed 11/24/67.]

**WAC 388-81-035 Confidential records.** Medical and administrative records pertaining to applications and services rendered recipients are confidential. Disclosure of information contained in such records, files, papers, and communications is prohibited except for purposes directly connected with the administration of the public assistance and medical care programs.

[Order 264 (part), § 388-81-035, filed 11/24/67.]

**WAC 388-81-040 Fair hearing.** (1) Any applicant for or recipient of medical care provided under chapter 74.09 RCW who feels aggrieved by a decision rendered by the department has a right to a fair hearing as provided by chapter 388-08 WAC.

(2) When the fair hearing request calls into question a decision of a medical consultant or when eligibility is being determined in the medicaid category or state funded medical program, a prehearing review is the responsibility of the division of medical assistance.

(3) Chapter 388-08 WAC applies when a request for a fair hearing is related to medical care.

(4) The medical director or his designee shall review all fair hearing requests referred by the examiner to determine:

(a) Whether or not the appellant's request for service was filed according to the applicable rules and regulations,

(b) Whether or not the decisions have been made upon complete and accurate evaluation of the facts, existing standards, regulations, and policies.

(5) All records and information necessary to determine the validity of the appellant's fair hearing request shall be furnished upon request to the reviewing authority and forwarded not later than ten days from such request.

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(6) An medical assessment by a professionally qualified person and/or persons not a party to the action being appealed may be obtained at the request of the examiner or the appellant.

(7) Upon receipt of the necessary material, evidence, or reports, the designated reviewing authority shall evaluate the appellant's request in accord with existing rules, regulations, and policies of the department. The reviewing authority:

(a) May reverse the decision when such adverse decision has been made contrary to rules, regulations and policies of the division;

(b) May resolve a situation resulting in the fair hearing request by adjustment.

(8) In providing a system for fair hearings for applicants or recipients of medical care, the rules in chapter 388-08 WAC shall be adhered to and, where appropriate, other portions of WAC which are applicable to the particular circumstances of the appellant.

[Statutory Authority: RCW 74.08.090. 81-10-014 (Order 1646), § 388-81-040, filed 4/27/81; 80-13-020 (Order 1542), § 388-81-040, filed 9/9/80; 78-10-077 (Order 1346), § 388-81-040, filed 9/27/78; Order 1112, § 388-81-040, filed 4/15/76; Order 952, § 388-81-040, filed 7/16/74; Order 578, § 388-81-040, filed 7/20/71; Order 299, § 388-81-040, filed 9/6/68; Order 264 (part), § 388-81-040, filed 11/24/67.]

**WAC 388-81-042 Fair hearing--Provider.** Any certified provider of medical care services who is assessed a civil penalty pursuant to RCW 74.09.210 or otherwise served with notice that repayment of excess benefits is due pursuant to RCW 74.09.210, has a right to a fair hearing as provided by chapter 388-08 WAC.

[Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-81-042, filed 9/9/80.]

**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.

(1986 Ed.)

(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 388-81-050 Restitution.** (1) If a recipient of medical care was not eligible for such care or comes into possession of resources which he/she fails to disclose to the department, the amount of such medical care payment made by the department on his/her behalf which could have been met by his/her undisclosed resources shall be an overpayment and a debt due the department. (See chapter 388-44 WAC for definition of overpayment and procedures pertaining to repayment by grant recipients.) Reimbursement cannot be collected from a grant for vendor payments incorrectly paid for medical care.

(2) If repayment is not obtained from a nongrant recipient, the case and the files relative thereto shall be forwarded to the office of reimbursements for such further action as deemed necessary. However, in no event shall a lien be filed while the ineligible recipient or the dependent spouse is still living unless the claim has been reduced to judgment in a superior court of the state of Washington.

[Statutory Authority: RCW 74.08.090, 81-10-014 (Order 1646), § 388-81-050, filed 4/27/81; 78-02-024 (Order 1265), § 388-81-050, filed 1/13/78; Order 299, § 388-81-050, filed 9/6/68; Order 264 (part), § 388-81-050, filed 11/24/67.]

**WAC 388-81-052 Receipt of resources without giving adequate consideration.** (1) Any person who knowingly and wilfully receives nonexempt resources transferred or assigned for less than fair market value after December 1, 1981, and within two years preceding

the application for medical care, to enable an applicant or recipient to qualify or continue to qualify for Title XVI related medical assistance or the limited casualty program for the medically needy, is liable for a civil penalty and is subject to referral for criminal prosecution for commission of a gross misdemeanor.

(2) Definitions:

(a) Transfer shall mean any act or omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing an interest in property. Transfer of title to a resource occurs by:

(i) An intentional act or transfer; or

(ii) Failure to act to preserve title to the resource.

(b) Fair market value means the reasonable value of a resource at the time of transfer or assignment.

(c) Uncompensated value means the fair market value of a resource minus the amount of compensation received in exchange for the resource.

(d) Value of compensation received means the consideration paid or agreed to be paid by the purchaser.

(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.]

**WAC 388-81-055 Fraud.** Any person who by means of willfully false statement or representation or by impersonation or other fraudulent device or failure to reveal resources as required obtains or attempts to obtain or aids or abets any person to obtain medical care to which he/she is not entitled shall be guilty of larceny. See WAC 388-44-020 for procedures to be followed in cases involving fraud.

[Statutory Authority: RCW 74.08.090. 81-10-014 (Order 1646), § 388-81-055, filed 4/27/81; Order 299, § 388-81-055, filed 9/6/68; Order 264 (part), § 388-81-055, filed 11/24/67.]

**WAC 388-81-060 Supplementary medical insurance "buy in."** The department will purchase supplementary medical insurance Part B, under Title XVIII of the Social Security Act for an otherwise eligible individual.

[Statutory Authority: RCW 74.08.090. 81-10-014 (Order 1646), § 388-81-060, filed 4/27/81; Order 911, § 388-81-060, filed 3/1/74; Order 833, § 388-81-060, filed 7/26/73; Order 299, § 388-81-060, filed 9/6/68.]

## Chapter 388-82 WAC

### MEDICAL CARE--PROGRAM DESCRIBED-- LIMITATIONS

#### WAC

388-82-006	Medical assistance.
388-82-010	Persons eligible for medical assistance.
388-82-115	The department shall classify as eligible for categorically needy medical assistance.
388-82-126	Medical care services (GAU).
388-82-130	Medical care provided in bordering cities.
388-82-135	Out-of-state medical care.

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

388-82-005	Medical care--General description of programs. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-82-005, filed 9/9/80; 78-02-024 (Order 1265), § 388-82-005, filed 1/13/78; Order 952, § 388-82-005, filed 7/16/74; Order 264 (part), § 388-82-005, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
388-82-015	"H" category (federal aid). [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-82-015, filed 1/13/78; Order 1097, § 388-82-015,

388-82-020	filed 2/13/76; Order 995, § 388-82-015, filed 12/31/74; Order 911, § 388-82-015, filed 3/1/74; Order 765, § 388-82-015, filed 1/10/73; Order 518, § 388-82-015, filed 2/24/71; Order 382, § 388-82-015, filed 8/27/69; Order 300, § 388-82-015, filed 9/6/68; Order 264 (part), § 388-82-015, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090. Medical care services. [Statutory Authority: RCW 74.08.090. 80-15-034 (Order 1554), § 388-82-020, filed 10/9/80; 79-06-034 (Order 1402), § 388-82-020, filed 5/16/79; 79-01-002 (Order 1359), § 388-82-020, filed 12/8/78; Order 1203, § 388-82-020, filed 4/1/77; Order 1196, § 388-82-020, filed 3/3/77; Order 995, § 388-82-020, filed 12/31/74; Order 911, § 388-82-020, filed 3/1/74; Order 765, § 388-82-020, filed 1/10/73; Order 677, § 388-82-020, filed 5/10/72; Order 547, § 388-82-020, filed 3/31/71, effective 5/1/71; Order 382, § 388-82-020, filed 8/27/69; Order 300, § 388-82-020, filed 9/6/68; Order 264 (part), § 388-82-020, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
388-82-025	Institutional status. [Order 1097, § 388-82-025, filed 2/13/76; Order 518, § 388-82-025, filed 2/24/71; Order 264 (part), § 388-82-025, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
388-82-030	State of Washington resident requiring care out-of-state. [Statutory Authority: RCW 74.08.090. 79-01-002 (Order 1359), § 388-82-030, filed 12/8/78; Order 1203, § 388-82-030, filed 4/1/77; Order 1166, § 388-82-030, filed 10/27/76; Order 1112, § 388-82-030, filed 4/15/76; Order 709, § 388-82-030, filed 9/14/72; Order 462, § 388-82-030, filed 6/23/70; Order 332, § 388-82-030, filed 2/3/69; Order 300, § 388-82-030, filed 9/6/68; Order 264 (part), § 388-82-030, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
388-82-035	Out-of-state resident requiring medical care in Washington state. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-82-035, filed 9/9/80; Order 1203, § 388-82-035, filed 4/1/77; Order 1158, § 388-82-035, filed 10/6/76; Order 995, § 388-82-035, filed 12/31/74; Order 879, § 388-82-035, filed 11/29/73; Order 404, § 388-82-035, filed 11/24/69; Order 382, § 388-82-035, filed 8/27/69; Order 300, § 388-82-035, filed 9/6/68; Order 264 (part), § 388-82-035, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
388-82-040	Medical care for Cuban refugees. [Order 995, § 388-82-040, filed 12/31/74; Order 834, § 388-82-040, filed 7/26/73; Order 300, § 388-82-040, filed 9/6/68.] Repealed by 78-02-024 (Order 1265), filed 1/13/78. Statutory Authority: RCW 74.08.090.
388-82-045	Medical care for United States citizen returned from foreign country. [Order 300, § 388-82-045, filed 9/6/68.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
388-82-125	Recipients in medical institutions eligible under Title XIX. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-82-125, filed 12/3/81; 81-10-014 (Order 1646), § 388-82-125, filed 4/27/81.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090. Later promulgation, see WAC 388-95-300.
	<b>WAC 388-82-006 Medical assistance.</b> Medical assistance is the Title XIX funded medical program that provides full scope medical care to eligible individuals.
	[Statutory Authority: RCW 74.08.090. 81-10-014 (Order 1646), § 388-82-006, filed 4/27/81.]

**WAC 388-82-010 Persons eligible for medical assistance.** Medical assistance is available to any individual who is categorically needy.

(1) Individuals receiving or eligible to receive a cash assistance payment. Categories under which individuals may qualify include:

- (a) Aid to families with dependent children (AFDC);
- (b) Supplemental Security Income (SSI);
- (c) State supplemental payment. The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for medical aid; and

(d) Individuals under age twenty-one whose income is less than the one person AFDC standard and who are in:

- (i) Foster care; or
- (ii) Subsidized adoption; or
- (iii) Skilled nursing home, intermediate care facility, or intermediate care facility for mentally retarded (ICF/MR); or
- (iv) Approved inpatient psychiatric facilities.

(e) A pregnant woman who would be eligible for AFDC if her child were born and living with her. In determining income eligibility for medical aid the number in the household is increased by one before being compared to the AFDC payment standard.

(2) Individuals in medical facilities:

(a) Who would be eligible for cash assistance if they were not institutionalized. This includes all categorically needy groups;

(b) Who are SSI categorically related and would not be eligible for cash assistance if they were not institutionalized and whose gross income does not exceed the three hundred percent SSI benefit cap. This includes only aged, blind, and disabled groups.

(3) Individuals who would not receive cash assistance because of special provisions as defined in WAC 388-83-028.

[Statutory Authority: RCW 74.08.090. 86-11-025 (Order 2378), § 388-82-010, filed 5/14/86; 82-21-024 (Order 1891), § 388-82-010, filed 10/13/82; 82-06-003 (Order 1766), § 388-82-010, filed 2/18/82; 82-01-001 (Order 1725), § 388-82-010, filed 12/3/81; 81-16-033 (Order 1685), § 388-82-010, filed 7/29/81; 81-11-046 (Order 1655), § 388-82-010, filed 5/20/81; 80-13-020 (Order 1542), § 388-82-010, filed 9/9/80; 78-10-077 (Order 1346), § 388-82-010, filed 9/27/78; Order 1202, § 388-82-010, filed 4/1/77; Order 1137, § 388-82-010, filed 7/29/76; Order 1044, § 388-82-010, filed 8/14/75; Order 995, § 388-82-010, filed 12/31/74; Order 952, § 388-82-010, filed 7/16/74; Order 911, § 388-82-010, filed 3/1/74; Order 382, § 388-82-010, filed 8/27/69; Order 300, § 388-82-010, filed 9/6/68; Order 264 (part), § 388-82-010, filed 11/24/67.]

**WAC 388-82-115 The department shall classify as eligible for categorically needy medical assistance.** (1) Persons who, in August 1972, received OAA, AB, AFDC, or APTD, and also received RSDI benefits, and who are ineligible for OAA, AB, AFDC or APTD solely because of the twenty percent increase in Social Security benefits under Public Law 92-336.

(2) Persons who were entitled to RSDI benefits in August 1972, and are ineligible for AFDC or SSI solely because of the twenty percent increase in Social Security benefits under Public Law 92-336.

(3) Family units which are ineligible for AFDC 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) Are ineligible for SSI benefits and/or state supplementary payments; and

(c) Would be eligible for SSI benefits if the following were deducted from the current Title II benefit amount:

(i) All Title II cost-of-living benefit increases received by the recipient since termination from SSI/SSP; and

(ii) All Title II cost-of-living benefit increases received during the time period in (c)(i) of this subsection by the recipient's spouse and/or other financially responsible family member living in the same household.

(5) Certain recipients of SSI, after January 1, 1981, who continue to be eligible for medical assistance (MA) under Public Law 96-265.

(6) Pregnant women, with no other eligible children, who are ineligible for AFDC cash assistance solely because they have not reached the sixth month of pregnancy.

(7) Persons who are denied AFDC cash payments solely by reason of recovery of an overpayment.

(8) Children under five years of age, who are born after September 30, 1983, and who meet the income and resource requirements of AFDC financial assistance.

(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.

(10) Children born to a woman eligible for and receiving medical assistance on the date of the child's birth, from the date of birth for a period of one year if:

(a) The child remains a member of the mother's 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 are 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) Pregnant women who do not meet the deprivation requirements of AFDC financial assistance if:

(a) They would meet the AFDC financial assistance income requirements if the number in the household is increased by one before being compared to the payment standard; and

(b) They meet the AFDC financial assistance resource requirements.

(13) Persons who are denied AFDC or SSI cash assistance solely because of deeming of income of alien sponsors.

(14) Current disabled recipients of widow's or widower's benefits under section 202(e) or (f) of the Social Security Act if he or she:

(a) Was entitled to a monthly insurance benefit under Title II of the Social Security Act for December 1983; and

(b) Was entitled to and received a widow's or widower's benefit based on a disability under section 202(e) or (f) of the Social Security Act for January 1984; and

(c) Became ineligible for SSI/SSP in the first month in which the increase provided under section 134 of P. L. 98-21 was paid to him or her; and

(d) Has been continuously entitled to a widow's or widower's benefit under section 202(e) or (f) of the act; and

(e) Would be eligible for SSI/SSP benefits if the amount of that increase, and any subsequent cost-of-living increases provided under section 215(i) of the act, were disregarded.

[Statutory Authority: RCW 74.08.090. 87-01-097 (Order 2453), § 388-82-115, filed 12/22/86; 86-11-025 (Order 2378), § 388-82-115, filed 5/14/86; 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 388-82-126 Medical care services (GAU).** (1) State-funded medical care services provides a more limited scope of medical care to eligible individuals as defined in chapter 388-86 WAC.

(2) Continuing general assistance recipients in skilled nursing homes, intermediate care facilities or intermediate care facilities for mentally retarded shall be provided medical care services to the same extent as a recipient of medical assistance.

[Statutory Authority: RCW 74.08.090. 83-17-006 (Order 1996), § 388-82-126, filed 8/5/83; 81-16-033 (Order 1685), § 388-82-126, filed 7/29/81; 81-10-014 (Order 1646), § 388-82-126, filed 4/27/81.]

**WAC 388-82-130 Medical care provided in bordering cities.** Medical care will be provided to eligible individuals in a bordering city on the same basis as in-state care. The only recognized bordering cities are Moscow, Sandpoint, Priest River, and Lewiston, Idaho; Portland,

The Dalles, 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.]

**WAC 388-82-135 Out-of-state medical care.** (1) A categorically needy resident of the state of Washington temporarily out of the state may be provided medical assistance within the scope of the medicaid program.

(a) Residency requirements in chapter 388-80 WAC must be met.

(b) Medical assistance may be provided only in areas of Canada that border on the United States when no other resource is available.

(2) Persons eligible for the limited casualty program—medically needy may be provided medical care within the scope of that program.

(3) When an eligible individual goes to another state, excluding bordering cities, expressly to obtain medical care that is available within the state of Washington, medical assistance will only be provided on an emergency basis.

(4) Medical assistance will be provided to persons who enter the state and are determined to be financially eligible, provided the residency requirements in chapter 388-80 WAC are met.

(5) State-funded medical care is not provided out-of-state except in designated bordering cities.

[Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-82-135, filed 7/29/81; 81-10-014 (Order 1646), § 388-82-135, filed 4/27/81.]

## Chapter 388-83 WAC MEDICAL CARE--ELIGIBILITY

### WAC

388-83-005	Medical assistance eligibility.
388-83-006	Medical care services.
388-83-010	Alternative sources for medical care.
388-83-012	Assignment of rights.
388-83-015	Citizenship and alienage.
388-83-017	Social Security number.
388-83-020	Age.
388-83-025	Residence.
388-83-028	Eligibility factors for special categories.
388-83-031	Continuation of eligibility for pregnant women.
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.

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-83-027	Medical need. [Order 1196, § 388-83-027, filed 3/3/77; Order 1061, § 388-83-027, filed 10/8/75; Order 964, § 388-83-027, filed 8/19/74; Order 922, § 388-83-027, filed 4/15/74; Order 911, § 388-83-027, filed 3/1/74; Order 879, § 388-83-027, filed 11/29/73; Order 787, § 388-83-027, filed 4/12/73; Order 736, § 388-83-027, filed 11/22/72; Order 419, § 388-83-027, filed 12/31/69.] Repealed by 78-02-
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- 024 (Order 1265), filed 1/13/78. Statutory Authority: RCW 74.08.090.
- 388-83-030 Computation of available income and resources. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-83-030, filed 9/9/80; 79-09-053 (Order 1427), § 388-83-030, filed 8/24/79; 78-10-077 (Order 1346), § 388-83-030, filed 9/27/78; Order 1203, § 388-83-030, filed 4/1/77; Order 1196, § 388-83-030, filed 3/3/77; Order 1158, § 388-83-030, filed 10/6/76; Order 1112, § 388-83-030, filed 4/15/76; Order 922, § 388-83-030, filed 3/16/73; Order 780, § 388-83-030, filed 9/14/72; Order 655, § 388-83-030, filed 2/9/72; Order 466, § 388-83-030, filed 6/23/70; Order 264 (part), § 388-83-030, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-83-035 Monthly maintenance standard—Applicant living in own home. [Statutory Authority: RCW 74.08.090. 80-12-012 (Order 1537), § 388-83-035, filed 8/25/80; 79-09-032 (Order 1424), § 388-83-035, filed 8/15/79; 78-10-059 (Order 1339), § 388-83-035, filed 9/22/78; Order 1246, § 388-83-035, filed 10/11/77; Order 1144, § 388-83-035, filed 8/26/76; Order 1061, § 388-83-035, filed 10/8/75; Order 1040, § 388-83-035, filed 8/7/75; Order 1015, § 388-83-035, filed 3/27/75; Order 995, § 388-83-035, filed 12/31/75; Order 952, § 388-83-035, filed 7/16/74; Order 922, § 388-83-035, filed 4/15/74; Order 911, § 388-83-035, filed 3/1/74; Order 879, § 388-83-035, filed 11/29/73; Order 787, § 388-83-035, filed 4/12/73; Order 655, § 388-83-035, filed 2/9/72; Order 555, § 388-83-035, filed 4/1/71; Order 466, § 388-83-035, filed 6/23/70; Order 383, § 388-83-035, filed 8/27/69; Order 264 (part), § 388-83-035, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-83-040 Monthly personal needs allowance—Applicant in institution. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-83-040, filed 9/9/80; 80-02-062 (Order 1478), § 388-83-040, filed 1/18/80; 79-01-002 (Order 1359), § 388-83-040, filed 12/8/78; Order 1061, § 388-83-040, filed 10/8/75; Order 922, § 388-83-040, filed 4/15/74; Order 383, § 388-83-040, filed 8/27/69; Order 264 (part), § 388-83-040, filed 11/24/67.] Repealed by 81-16-033 (Order 1685), filed 7/29/81. Statutory Authority: 74.08.090.
- 388-83-045 Allocation of available income and nonexempt resources. [Statutory Authority: RCW 74.08.090. 80-15-034 (Order 1554), § 388-83-045, filed 10/9/80; 80-02-061 (Order 1479), § 388-83-045, filed 1/18/80; 79-01-002 (Order 1359), § 388-83-045, filed 12/8/78; Order 1233, § 388-83-045, filed 8/31/77; Order 1196, § 388-83-045, filed 3/3/77; Order 1151, § 388-83-045, filed 9/8/76; Order 1061, § 388-83-045, filed 10/8/75; Order 994, § 388-83-045, filed 12/31/74; Order 922, § 388-83-045, filed 4/15/74; Order 911, § 388-83-045, filed 3/1/74; Order 879, § 388-83-045, filed 11/29/73; Order 835, § 388-83-045, filed 7/26/73; Order 787, § 388-83-045, filed 4/12/73; Order 678, § 388-83-045, filed 5/10/72; Order 628, § 388-83-045, filed 11/24/71; Order 579, § 388-83-045, filed 7/20/71; Order 548, § 388-83-045, filed 3/31/71, effective 5/1/71; Order 497, § 388-83-045, filed 11/25/70, effective 1/1/71; Order 419, § 388-83-045, filed 12/31/69; Order 405, § 388-83-045, filed 11/24/69; Order 301, § 388-83-045, filed 9/6/68; Order 264 (part), § 388-83-045, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-83-050 Availability of resources. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-83-050, filed 9/9/80; 79-09-053 (Order 1427), § 388-83-050, filed 8/24/79; Order 1202, § 388-83-050, filed 4/1/77; Order 1097, § 388-83-050, filed 2/13/76; Order 879, § 388-83-050, filed 11/29/73; Order 333, § 388-83-050, filed 2/3/69; Order 264 (part), § 388-83-050, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-83-055 Exempt resources. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-83-055, filed 9/9/80; Order 1233, § 388-83-055, filed 8/31/77; Order 1158, § 388-83-055, filed 10/6/76; Order 780, § 388-83-055, filed 3/16/73; Order 710, § 388-83-055, filed 9/14/72; Order 419, § 388-83-055, filed 12/31/69; Order 400, § 388-83-055, filed 11/5/69; Order 301, § 388-83-055, filed 9/6/68; Order 264 (part), § 388-83-055, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-83-060 Nonexempt resources. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-83-060, filed 9/9/80; Order 400, § 388-83-060, filed 11/5/69; Order 264 (part), § 388-83-060, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-83-065 Transfer of resources within two years prior to application. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-83-065, filed 5/16/79; Order 1233, § 388-83-065, filed 8/31/77; Order 930, § 388-83-065, filed 4/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-83-135 Eligibility determination—Institutional. [Statutory Authority: RCW 74.08.090. 82-10-062 (Order 1801), § 388-83-135, filed 5/5/82; 82-01-001 (Order 1725), § 388-83-135, filed 12/3/81; 81-16-033 (Order 1685), § 388-83-135, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-135, filed 4/27/81.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090. Later promulgation, see WAC 388-95-320.
- 388-83-140 Allocation of income—Institutionalized recipient. [Statutory Authority: RCW 74.08.090. 83-02-027 (Order 1930), § 388-83-140, filed 12/29/82; 82-10-062 (Order 1801), § 388-83-140, filed 5/5/82; 81-16-033 (Order 1685), § 388-83-140, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-140, filed 4/27/81.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090. Later promulgation, see WAC 388-95-360.

**WAC 388-83-005 Medical assistance eligibility.**

The department shall provide medical assistance within the limitations set forth under these rules and regulations to any individual who has been certified Title XIX eligible categorically needy. The recipient shall be responsible for furnishing the provider with a medical identification coupon or other adequate notification of eligibility provided by the department. Eligibility for medically needy is described in chapter 388-99 WAC.

[Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-83-005, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-005, filed 4/27/81; Order 1203, § 388-83-005, filed 4/1/77; Order 922, § 388-83-005, filed 4/15/74; Order 483, § 388-83-005, filed 10/13/70; Order 264 (part), § 388-83-005, filed 11/24/67.]

**WAC 388-83-006 Medical care services.** The department shall provide state-funded medical care services within the limitations set forth under these rules and regulations to any individual who has been certified as eligible to receive continuing general assistance. The recipient shall be responsible for furnishing the provider



with a medical identification coupon or other adequate verification of eligibility provided by the department.

[Statutory Authority: RCW 74.08.090. 83-17-006 (Order 1996), § 388-83-006, filed 8/5/83; 81-16-033 (Order 1685), § 388-83-006, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-006, filed 4/27/81.]

**WAC 388-83-010 Alternative sources for medical care.** (1) All third party resources for medical care available to the applicant or recipient must be utilized to the fullest possible extent in the payment for the medical care prior to participation by the department.

(2) 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 388-83-015 Citizenship and alienage.** An applicant must be a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law including an alien who is lawfully present in the United States according to specified sections of the Immigration and Nationality Act. (See WAC 388-26-120.)

[Statutory Authority: RCW 74.08.090. 81-10-014 (Order 1646), § 388-83-015, filed 4/27/81; Order 967, § 388-83-015, filed 8/29/74; Order 264 (part), § 388-83-015, filed 11/24/67.]

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**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 388-83-020 Age.** No age requirement is imposed as a condition of eligibility in regard to medical assistance. The age of the applicant is established to determine whether the individual may be related to a federal aid category, or may be eligible for the under age twenty-one category.

[Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-83-020, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-020, filed 4/27/81; Order 264 (part), § 388-83-020, filed 11/24/67.]

**WAC 388-83-025 Residence.** An applicant or recipient of the benefits of the medical care program must be a resident of the state of Washington; an applicant-recipient need not be a resident of the county in which medical care is obtained.

[Statutory Authority: RCW 74.08.090. 81-10-014 (Order 1646), § 388-83-025, filed 4/27/81; 80-02-001 (Order 1470), § 388-83-025, filed 1/3/80; Order 264 (part), § 388-83-025, filed 11/24/67.]

**WAC 388-83-028 Eligibility factors for special categories.** (1) Cash recipients of OAA, AB or APTD who became ineligible because of the twenty percent increase

in RSDI benefits in August 1972, must have that increase disregarded in determining current eligibility. If the sole reason for their income exceeding the cash standard is the August 1972, increase, then they are categorically eligible for Medicaid. Medicaid eligibility determinations for this group must include this factor.

(2) Persons who were eligible under federal cash assistance programs (AFDC, OAA, AB or APTD) but were not receiving assistance, and would have been ineligible solely because of the August 1972, RSDI twenty percent increase shall have the twenty percent increase disregarded in determining financial eligibility.

(3) An AFDC family unit which becomes ineligible solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance (MA) for four calendar months beginning with the month of ineligibility provided that:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility,

(b) A member of such family continues to be employed, and

(c) The family is otherwise eligible for AFDC except for increased hours or increased income from employment.

(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 388-83-031 Continuation of eligibility for pregnant women.** A woman who was eligible for and received Medicaid on the last day of pregnancy shall continue to be eligible for Medicaid-covered postpartum and pregnancy-related services for sixty days following that date.

[Statutory Authority: RCW 74.08.090. 86-21-002 (Order 2430), § 388-83-031, filed 10/2/86.]

(1986 Ed.)

**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.

(5) Family units which are determined ineligible for AFDC assistance solely due to the requirements of WAC 388-24-050 that certain parents and siblings be included in the assistance unit. Such individuals and their income may, at the applicant's option, be excluded from the assistance unit when determining eligibility of the remaining assistance unit members for categorically needy medical assistance.

(6) Family units which are determined ineligible for AFDC financial assistance solely due to the requirements of WAC 388-28-500(4) that income of the non-applying parents of a minor parent be considered

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available to the assistance unit of the minor parent and such minor's child or children. Such income shall be disregarded when determining eligibility of such minor's child or children.

[Statutory Authority: RCW 74.08.090. 86-20-015 (Order 2424), § 388-83-130, filed 9/22/86; 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.** (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

388-84-105	Medical assistance.
388-84-110	Application—Disposition.
388-84-115	Effective date of eligibility.
388-84-120	Application for medical care services (GAU).

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

388-84-005	Right to apply. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-84-005, filed 9/9/80; 79-06-034 (Order 1402), § 388-84-005,
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- filed 5/16/79; Order 1233, § 388-84-005, filed 8/31/77; Order 995, § 388-84-005, filed 12/31/74; Order 879, § 388-84-005, filed 11/29/73; Order 793, § 388-84-005, filed 4/26/73; Order 764, § 388-84-005, filed 1/10/73; Order 629, § 388-84-005, filed 11/24/71; Order 473, § 388-84-005, filed 8/19/70; Order 302, § 388-84-005, filed 9/6/68; Order 264 (part), § 388-84-005, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-84-010 Disposition of application. [Order 1111, § 388-84-010, filed 4/15/76; Order 995, § 388-84-010, filed 12/31/74; Order 938, § 388-84-010, filed 5/23/74; Order 302, § 388-84-010, filed 9/6/68; Order 264 (part), § 388-84-010, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-84-015 Approval of application. [Statutory Authority: RCW 74.08.090. 81-06-003 (Order 1610), § 388-84-015, filed 2/19/81; Order 1203, § 388-84-015, filed 4/1/77; Order 938, § 388-84-015, filed 5/23/74; Order 879, § 388-84-015, filed 11/29/73; Order 711, § 388-84-015, filed 9/14/72; Order 695, § 388-84-015, filed 6/29/72; Order 591, § 388-84-015, filed 8/25/71; Order 435, § 388-84-015, filed 3/31/70; Order 302, § 388-84-015, filed 9/6/68; Order 264 (part), § 388-84-015, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-84-020 Denial of application. [Statutory Authority: RCW 74.08.090. 80-15-034 (Order 1554), § 388-84-020, filed 10/9/80; 79-01-002 (Order 1359), § 388-84-020, filed 12/8/78; Order 1203, § 388-84-020, filed 4/1/77; Order 788, § 388-84-020, filed 4/12/73; Order 737, § 388-84-020, filed 11/22/72; Order 695, § 388-84-020, filed 6/29/72; Order 629, § 388-84-020, filed 11/24/71; Order 580, § 388-84-020, filed 7/20/71; Order 419, § 388-84-020, filed 12/31/69; Order 264 (part), § 388-84-020, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-84-025 Withdrawal. [Order 695, § 388-84-025, filed 6/29/72; Order 264 (part), § 388-84-025, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

**WAC 388-84-105 Medical assistance.** (1) All individuals wishing to make application for medical assistance or the limited casualty program shall have the opportunity to do so without delay.

- (a) Applicants will be provided with:
- (i) An explanation of the Civil Rights Act,
  - (ii) Fair hearing information,
  - (iii) Information on early and periodic screening, diagnosis and treatment, when appropriate,
  - (iv) Information on family planning, when appropriate.
- (b) The application shall be in writing; a verbal request is not an application.
- (c) If death of applicant intervenes, the application may be completed by a relative or interested person(s).

(2) Individuals who receive cash assistance payment under AFDC, SSI or state supplement are eligible without a separate application.

(3) A spouse ineligible for SSI benefits solely because of the level of his/her income must apply individually for medical assistance.

(4) A resident of the state of Washington temporarily out of the state may make application directly to the community services office (CSO) in his/her area of the

state through either an individual or agency acting in his/her behalf.

[Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-84-105, filed 7/29/81; 81-10-014 (Order 1646), § 388-84-105, filed 4/27/81.]

**WAC 388-84-110 Application--Disposition.** (1) Timely determination standards are:

- (a) Sixty days for applicants based on disability,
- (b) Forty-five days for all other categories,
- (c) The standards for timely processing of applications shall not be used as a waiting period for determining eligibility. Each application shall be acted upon as quickly as possible.

(2) Each application shall be acted upon within the standards of subsection (1) of this section. When CSO has otherwise acted promptly at all stages of the application process the time standard may be extended if the CSO cannot reach a timely eligibility decision because:

- (a) The applicant or an examining physician delays or fails to provide information or fails to take a required action; or
- (b) The eligibility determination depends upon out-of-state or intercity correspondence and no other verification is available to establish the eligibility factor at issue; or

(c) The occurrence of an administrative or other emergency beyond the control of the CSO. Administrative burdens do not justify delayed processing of applications.

(3) For cash assistance, approval of the medical assistance is concurrent.

(4) Applicants for medical assistance will be notified of departmental action by means of a notification of eligibility letter.

(5) 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, with the exception of WAC 388-38-110. For time limits for disposal of a medical application, subsections (1) and (2) of this section shall apply.

(6) The department may rescind a denial and approve assistance based on a denied application when:

- (a) The applicant, within thirty days from the date of denial, provides additional information needed to establish eligibility, or
- (b) Following this thirty-day period:
  - (i) The applicant timely requests a fair hearing to appeal the denial; and
  - (ii) The applicant provides the additional information needed to establish eligibility.

[Statutory Authority: RCW 74.08.090. 86-17-022 (Order 2409), § 388-84-110, filed 8/12/86; 86-11-022 (Order 2375), § 388-84-110, filed 5/14/86; 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.]

**WAC 388-84-115 Effective date of eligibility.** (1) The effective date of eligibility for medical assistance shall be no later than the third month before the month of application provided:

- (a) The medical services received were covered.
- (b) Individual would have been eligible had he/she applied.
- (c) Applicant met all eligibility factors in either chapter 388-83 or 388-92 WAC.
- (2) Eligibility effective date for medical assistance is the first day of the month if the individual was eligible at any time during that month.
- (3) The month of application for SSI beneficiaries for purposes of determining eligibility for medical assistance shall be the month they apply for SSI.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-84-115, filed 12/3/81; 81-10-014 (Order 1646), § 388-84-115, filed 4/27/81.]

**WAC 388-84-120 Application for medical care services (GAU).** (1) Continuing general assistance recipients are eligible for medical care services.

(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.

(3) Termination of medical care services occurs with termination of the continuing general assistance grant.

[Statutory Authority: RCW 74.08.090. 83-17-006 (Order 1996), § 388-84-120, filed 8/5/83; 82-17-072 (Order 1868), § 388-84-120, filed 8/18/82; 82-01-001 (Order 1725), § 388-84-120, filed 12/3/81; 81-16-033 (Order 1685), § 388-84-120, filed 7/29/81; 81-10-014 (Order 1646), § 388-84-120, filed 4/27/81.]

### Chapter 388-85 WAC

#### MEDICAL CARE—CERTIFICATION

##### WAC

- 388-85-105 Certification of eligibility.
- 388-85-110 SSI/state supplement termination.
- 388-85-115 Denied Title II and Title XVI applicants.

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

- 388-85-005 Certification document. [Order 952, § 388-85-005, filed 7/16/74; Order 264 (part), § 388-85-005, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-85-010 Authorization procedure. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-85-010, filed 9/9/80; Order 1196, § 388-85-010, filed 3/3/77; Order 952, § 388-85-010, filed 7/16/74; Order 789, § 388-85-010, filed 4/12/73; Order 419, § 388-85-010, filed 12/31/69; Order 384, § 388-85-010, filed 8/27/69; Order 264 (part), § 388-85-010, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-85-015 Period of certification. [Statutory Authority: RCW 74.08.090. 80-15-034 (Order 1554), § 388-85-015, filed 10/9/80; Order 1233, § 388-85-015, filed 8/31/77; Order 952, § 388-85-015, filed 7/16/74; Order 776, § 388-85-015, filed 3/1/73; Order 679, § 388-85-015, filed 5/10/72; Order 565, § 388-85-015, filed 5/19/71; Order 384, § 388-85-015, filed 8/27/69; Order 264 (part), § 388-85-015, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

- 388-85-020 Redetermination of eligibility. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-85-020, filed 9/9/80; 78-10-077 (Order 1346), § 388-85-020, filed 9/27/78; Order 952, § 388-85-020, filed 7/16/74; Order 776, § 388-85-020, filed 3/1/73; Order 712, § 388-85-020, filed 9/14/72; Order 565, § 388-85-020, filed 5/19/71; Order 334, § 388-85-020, filed 2/3/69; Order 264 (part), § 388-85-020, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-85-025 Notification—Initial certification, redetermination of eligibility and change of circumstances. [Order 712, § 388-85-025, filed 9/14/72.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-85-027 Effective date of change in eligibility. [Order 1137, § 388-85-027, filed 7/29/76.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-85-125 Continuing eligibility of grandfathered recipient of federal aid medical care only—Criteria. [Order 952, § 388-85-125, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.
- 388-85-130 Continuing eligibility of grandfathered recipient of federal aid medical care only—Blindness defined. [Order 952, § 388-85-130, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.
- 388-85-135 Continuing eligibility of grandfathered recipient of federal aid medical care only—Permanently and totally disabled defined. [Order 952, § 388-85-135, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.
- 388-85-140 Continuing eligibility of grandfathered recipient of federal aid medical care only—Refusal of disabled recipient to accept available and recommended medical treatment—Effect on eligibility. [Order 952, § 388-85-140, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.
- 388-85-145 Continuing eligibility of grandfathered recipient of federal aid medical care only—Annual review. [Order 952, § 388-85-145, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.
- 388-85-150 Continuing eligibility of grandfathered recipient of federal aid medical care only—Application following termination of eligibility. [Order 952, § 388-85-150, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.

**WAC 388-85-105 Certification of eligibility.** Entitlement to medical assistance continues until the recipient is determined ineligible for cash assistance.

(1) Whenever terminating cash assistance, the department shall automatically redetermine eligibility for medical assistance prior to termination of medical assistance.

(a) If additional information is necessary to redetermine eligibility, the department shall give the recipient ten days' notice and an opportunity to provide such information.

(b) The department shall give the recipient advance and adequate notice of the redetermination decision prior to termination of medical assistance. See WAC 388-33-376.

(c) Until the department redetermines a recipient's eligibility in conformity with the requirements of this section, the recipient remains eligible for categorically needy medical benefits.

(2) 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) For lack of cooperation in WIN or lack of school attendance which is not an eligibility factor for medical assistance, the department shall redetermine eligibility for medical assistance according to subsection (1) of this section.

(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.

(3) The department shall redetermine eligibility for medical assistance the same as for the related cash assistance program:

(a) For recipients under age eighteen not related to SSI, eligibility shall be redetermined every six months using AFDC financial criteria.

(b) For recipients in medical institutions eligibility shall be determined every twelve months.

(4) Any change in circumstances relating to the recipient's financial or medical eligibility must be reported within twenty days to the CSO.

(5) Notification procedures for any change of eligibility shall be the same as for cash assistance.

[Statutory Authority: RCW 74.08.090. 86-20-016 (Order 2425), § 388-85-105, filed 9/22/86; 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 Title II and Title XVI applicants.** When an individual has applied for Title II or Title XVI benefits and the SSA has denied the application solely because of a failure to meet blindness or disability criteria under Title II or Title XVI, the SSA denial shall be binding on the department, unless:

(1) The SSA denial is under appeals in the reconsideration stage, the SSA's administrative fair hearing process, the SSA's appeals council, or the federal courts; or

(2) The applicant's medical condition has changed since the SSA denial was issued.

[Statutory Authority: RCW 74.08.090. 86-07-004 (Order 2347), § 388-85-115, filed 3/6/86; 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**

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

388-86-010	Anesthetization services. [Order 264 (part), § 388-86-010, filed 11/24/67.] Repealed by 80-13-020 and 80-15-034 (Order 1542 and 1554), filed 9/9/80 and 10/9/80. Statutory Authority: RCW 74.08.090.
388-86-023	Chiropractic services. [Statutory Authority: RCW 74.08.090. 80-15-034 (Order 1554), § 388-86-023, filed 10/9/80; 78-02-024 (Order 1265), § 388-86-023, filed 1/13/78; Order 1166, § 388-86-023, filed

- 10/27/76; Order 1112, § 388-86-023, filed 4/15/76; Order 891, § 388-86-023, filed 12/27/73; Order 696, § 388-86-023, filed 6/29/72; Order 581, § 388-86-023, filed 7/20/71; Order 453, § 388-86-023, filed 5/20/70, effective 6/20/70; Order 385, § 388-86-023, filed 8/27/69.] Repealed by 81-10-015 (Order 1647), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-86-025 Drugs and pharmaceutical supplies. [Order 264 (part), § 388-86-025, filed 11/24/67.] Repealed by Order 316, filed 10/31/68.
- 388-86-032 Exceptions—Treatment for acute and emergent conditions. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-86-032, filed 5/16/79; Order 1203, § 388-86-032, filed 4/1/77; Order 680, § 388-86-032, filed 5/10/72; Order 581, § 388-86-032, filed 7/20/71.] Repealed by 80-15-034 (Order 1554), filed 10/9/80. Statutory Authority: RCW 74.08.090.
- 388-86-060 Medical care for prisoners. [Order 444, § 388-86-060, filed 4/15/70; Order 412, § 388-86-060, filed 12/23/69; Order 264 (part), § 388-86-060, filed 11/24/67.] Repealed by 86-09-007 (Order 2364), filed 4/4/86. Statutory Authority: RCW 74.08.090.
- 388-86-065 Medical-social services. [Order 264 (part), § 388-86-065, filed 11/24/67.] Repealed by 80-15-034 (Order 1554), filed 10/9/80. Statutory Authority: RCW 74.08.090.
- 388-86-070 Nursing services. [Order 1112, § 388-86-070, filed 4/15/76; Order 938, § 388-86-070, filed 5/23/74; Order 264 (part), § 388-86-070, filed 11/24/67.] Repealed by 78-02-024 (Order 1265), filed 1/13/78. Statutory Authority: RCW 74.08.090.
- 388-86-083 Patient care supplies. [Order 499, § 388-86-083, filed 12/2/70.] Repealed by Order 1112, filed 4/15/76.
- 388-86-096 Podiatry. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-86-096, filed 9/9/80.] Repealed by 81-10-016 (Order 1648), filed 4/27/81. Statutory Authority: RCW 74.08.090.

**WAC 388-86-005 Services available to recipients of medical assistance.** (1) For recipients of medical assistance (MA) categorically needy only, the department shall authorize early and periodic screening diagnosis and treatment services including dental, vision, and hearing services, to eligible individuals under twenty-one years of age, family planning services, home health agency services, inpatient and outpatient hospital care, other laboratory and x-ray services, skilled nursing home care, 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 388-86-009 Prepaid health plans.** (1) The department may enter into agreements with prepaid health plans including, but not limited to:

- (a) Health maintenance organizations (HMOs);
- (b) Preferred provider organizations (PPOs); and
- (c) Health insuring organizations (HIOs).

(2) Recipients enrolled in such plans are limited to the providers and services covered under these plans, except for:

- (a) Services not included in the agreement;
- (b) Service delivery arrangements otherwise approved by the department; or



(c) Services which are immediately required due to an unforeseen injury, illness or condition.

(3) Enrollment in these plans may be voluntary or mandatory depending on the requirements of the plan as determined by the department.

(4) A recipient shall exhaust the plan's grievance procedure prior to requesting a fair hearing. The plan's grievance procedure shall result in a written decision stating the basis for the decision. The recipient has the right to request a fair hearing if the decision is adverse or a written decision is not received within thirty days from the date the plan received the grievance.

(5) Voluntary prepaid health plans that have a contract with the department may include a stay-in requirement. Recipients choosing one of these plans must stay in the same plan for a period, as required by the contract, not to exceed six months, except that:

(a) The recipient may disenroll without cause:

(i) During the first month of enrollment; or

(ii) During the semi-annual one-month disenrollment period.

(b) The recipient may be disenrolled if:

(i) Eligibility for medical assistance is terminated; or

(ii) The recipient moves out of the area served by the prepaid health plan.

(c) The recipient may disenroll if he/she has good cause which shall include but not be limited to:

(i) Medically necessary services are not reasonably available from or through the HMO; or

(ii) The HMO has denied medically necessary services to the recipient; or

(iii) A change in circumstances results in geographical barriers making it unreasonably difficult for the recipient to obtain medically necessary services from or through the HMO.

(d) Voluntary disenrollment by the recipient will not hinder the recipient's right to reenroll at any time in any prepaid health plan that has a contract with the department.

(6) Effective February 1, 1986, certain recipients will be enrolled in a Health Insuring Organization designated by the department. Enrollment in this plan is mandatory for individuals certified as recipients of aid to families with dependent children-regular (AFDC-R), who live in Kitsap and Mason counties.

[Statutory Authority: RCW 74.08.090. 86-17-021 (Order 2401A), § 388-86-009, filed 8/12/86; 86-16-045 (Order 2401), § 388-86-009, filed 8/1/86; 86-03-046 (Order 2327), § 388-86-009, filed 1/15/86.]

**WAC 388-86-00901 Kitsap Physicians Service--Sound Care Plan.** (1) All AFDC-R recipients who live in Kitsap or Mason counties shall be enrolled in the Kitsap Physicians Service Sound Care Plan (plan), except as provided in subsection (3) of this section.

(2) Timely provision of services: The recipient shall have the right to receive medically necessary care without unreasonable delay.

(3) Exemptions and disenrollment: An applicant or recipient has the right to be exempt from enrollment in

the plan or to disenroll from the plan if medically necessary care that the plan is obligated by contract to provide cannot be made reasonably available. In making the determination, consideration shall include, but not be limited to:

(a) Whether distance or transportation problems make it unreasonably difficult for the recipient to obtain services; or

(b) Whether the absence of translators or of services accessible to disabled persons makes it unreasonably difficult for the recipient to obtain services.

(4) Emergencies: "Emergency" is defined as a situation in which medical services are immediately required to avoid placing an individual's health in serious jeopardy or to alleviate a condition manifesting itself by acute symptoms, including severe pain or discomfort, or active labor. Emergencies and emergency transportation services are exempt from routine medical care authorization procedures.

(a) The recipient is not responsible for determining, or for the cost of determining, if an emergency exists.

(b) If an emergency exists, the recipient is not financially responsible for any services rendered.

(c) If an emergency does not exist, and the plan will not authorize further services, the recipient is financially responsible for any further services received only if informed of his/her responsibility prior to the receipt of the services.

(5) Fair hearings: Any applicant or recipient aggrieved by a decision of the plan or the department has the right to a fair hearing as provided in chapter 388-08 WAC.

(a) Except as provided in (b) and (c) of this subsection, a recipient shall exhaust the plan's grievance procedure prior to requesting a fair hearing. The plan's grievance procedure shall result in a written decision stating the basis for the decision. The recipient has the right to request a fair hearing if the decision is adverse or the written decision is not received within thirty days from the date the plan received the grievance.

(b) In any case in which urgently needed medical services are being denied a recipient by the plan, a recipient is only required to provide a written grievance to the plan prior to or at the time of requesting a fair hearing.

(c) An applicant or recipient requesting exemption from enrollment in the plan is not required to file a formal grievance with the plan prior to requesting a fair hearing. The plan may be a party to any such fair hearing.

[Statutory Authority: RCW 74.08.090. 86-21-120 (Order 2437), § 388-86-00901, filed 10/21/86.]

**WAC 388-86-012 Audiometric services.** Evaluation of hearing by audiometric equipment is available to categorically needy recipients of Medicaid when administered by an approved audiologist or a physician. These evaluations must be related to the provision of a hearing aid or to a disease process and are not available for routine or group screenings.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-86-012, filed 12/3/81; 81-06-003 (Order 1610), § 388-86-012,

filed 2/19/81; 80-13-020 (Order 1542), § 388-86-012, filed 9/9/80; 78-02-024 (Order 1265), § 388-86-012, filed 1/13/78; Order 1202, § 388-86-012, filed 4/1/77.]

**WAC 388-86-015 Blood.** The department shall provide for purchase of needed whole blood or blood derivatives, subject to limitations as set forth in WAC 388-87-045.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-86-015, filed 12/3/81; Order 335, § 388-86-015, filed 2/3/69; Order 264 (part), § 388-86-015, filed 11/24/67.]

**WAC 388-86-020 Dental services.** (1) The department shall provide dental services to recipients of EPSDT.

(2) Services will include:

(a) Initial and periodic oral examinations.

(b) Treatment necessary for the relief of pain and infection, restoration of teeth, and maintenance of dental health.

(c) Orthodontic treatment is defined as the use of any appliance, intra oral or extra oral, removable or fixed, or any surgical procedure designed to move teeth. The following limitations apply:

(i) Prior approval 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 388-86-021 Dentures.** The department will provide to the extent of these rules dentures to recipients of medical assistance and the limited casualty program that includes only fabrication and fitting. All denture requests require prior approval.

[Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-86-021, filed 7/29/81.]

**WAC 388-86-02301 Chiropractic services.** (1) Services of a chiropractor, licensed by the state of Washington to perform within the scope of his license, shall be authorized when medically necessary.

(2) Services shall be subject to the following:

(a) Treatment shall be restricted to adjustment by hand of subluxation of the spine.

(b) X-rays shall be limited only to the following spinal areas:

(i) Cervical, anterior-posterior, and lateral.

(ii) Thoracic (dorsal), anterior-posterior, and lateral.

(iii) Lumbar and/or lumbo-sacral, anterior-posterior, and lateral.

(c) Chiropractic treatment received out of state, limited to three treatments for acute and emergent conditions, may be provided without prior approval for categorically needy recipients.

(d) Payment is restricted to a maximum of twenty treatments per calendar year per recipient subsequent to an initial visit payable only the first time a new patient is seen.

[Statutory Authority: RCW 74.08.090. 83-17-073 (Order 2011), § 388-86-02301, filed 8/19/83.]

**WAC 388-86-027 Early and periodic screening, diagnosis and treatment of eligible individuals under twenty-one years of age.** (1) To the extent provided under these rules, the department will make available to categorically needy individuals under twenty-one years of age, early and periodic screening and diagnosis to ascertain their physical and/or mental defects and will authorize treatment to correct or ameliorate the defects and chronic conditions discovered thereby. There will be freedom of choice in obtaining screening services from among participating providers. The following services are included in the program:

(a) Screening by providers of screening services who have been authorized by the division of medical assistance to provide an unclothed physical examination including at least:

(i) Medical history

(ii) Assessment of physical growth and nutritional status

(iii) Developmental assessment (physical and mental)

(iv) Inspection for obvious defects

(v) Inspection of ears, nose, mouth, teeth and throat

(vi) Visual screening; auditory testing

(vii) Screening for cardiac abnormalities

(viii) Screening for anemia

(ix) Urine screening

(x) Blood pressure (children twelve years of age or older)

(xi) Assessment of immunization status and updating immunization

(xii) Referral to a dentist for examination, diagnosis and treatment for children three years of age and over.

(b) When indicated by screening findings, providers of screening services will provide, or refer eligible children for more definitive diagnostic study and/or treatment.

(c) Treatment shall be limited to the same duration and scope of care available to other recipients of medical assistance, except regardless of any such limitations, treatment for visual and hearing defects including eyeglasses and hearing aids, and at least such dental care as is necessary for relief of pain and infection and for restoration of teeth and maintenance of dental health shall be provided, subject to such utilization controls as may be imposed by the department.

(d) See WAC 388-86-005 and 388-86-020 for limitations of the dental program, WAC 388-86-030 for eyeglasses and examinations and 388-86-040 for management of hearing defects.

(2) EPSDT is available to all individuals under twenty-one years of age who are determined to be categorically needy.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-86-027, filed 12/3/81; 81-10-015 (Order 1647), § 388-86-027, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-027, filed 10/9/80; 79-12-047 (Order 1457), § 388-86-027, filed 11/26/79; Order 1112, § 388-86-027, filed 4/15/76; Order 738, § 388-86-027, filed 11/22/72.]

**WAC 388-86-030 Eyeglasses and examinations.** (1) The department shall provide eye examinations and eyeglasses when a refractive error of sufficient magnitude exists to require corrective lenses. Payment 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 orthotics 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 388-86-035 Family planning.** (1) The department shall make known to clients the availability of family planning services. The department shall provide to eligible categorically needy recipients necessary physicians' services, clinic or hospital services, supplies and drugs needed in conjunction with family planning.

(2) Under the limited casualty program—medically needy only physicians' services and supplies will be provided.

[Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-86-035, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-035, filed 4/27/81; Order 1203, § 388-86-035, filed 4/1/77; Order 781, § 388-86-035, filed 3/16/73; Order 264 (part), § 388-86-035, filed 11/24/67.]

[Title 388 WAC—p 322]

**WAC 388-86-040 Hearing aids.** (1) The department provides to categorically needy recipients:

(a) The purchase of a new hearing aid covered by a one-year warranty under the following conditions:

(i) On prescription of the attending physician, 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 department is not responsible for purchase of batteries.

(b) The repair of a hearing aid when the repair is covered by a ninety-day warranty.

(c) Where there are significant handicapping factors the division may approve:

(i) A second hearing aid and/or replacement; or  
(ii) A hearing aid when the 50 decibel loss in the better ear is not met.

(2) Group screening for hearing aids is not permitted under the program.

(3) Individuals under age eighteen are referred to the crippled children's service conservation of hearing program.

(4) 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. 86-10-022 (Order 2368), § 388-86-040, filed 5/1/86; 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 388-86-045 Home health services.** The department shall provide home health nursing and other services furnished by a Title XVIII certified home health agency. To qualify for home health services the patient must be in the care of an attending physician who has authorized the plan of treatment, which was developed for the individual patient. Approval by the office of the medical director is required for any care extending beyond the limits established by the division of medical assistance.

[Statutory Authority: RCW 74.08.090. 82-21-024 (Order 1891), § 388-86-045, filed 10/13/82; 80-13-020 (Order 1542), § 388-86-045, filed 9/9/80; 78-02-024 (Order 1265), § 388-86-045, filed 1/13/78; Order 1112, § 388-86-045, filed 4/15/76; Order 592, § 388-86-045, filed 8/25/71; Order 435, § 388-86-045, filed 3/31/70; Order 264 (part), § 388-86-045, filed 11/24/67.]

**WAC 388-86-050 Inpatient hospital care.** (1) The department will provide hospitalization for recipients under age sixty-five and for recipients sixty-five and over who have exhausted Medicare benefits. With exceptions and limitations the recipient will have free choice of hospitalization.

(2) 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 75th 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. 86-14-099 (Order 2397), § 388-86-050, filed 7/2/86; 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), § 388-86-050, 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 388-86-055 Laboratory services.** The medical consultant's approval is not required for general laboratory procedures.

(1) Laboratory services provided to an inpatient in a hospital will be paid as a part of the total charges submitted for inpatient care in the hospital.

(2) Laboratory services provided on an outpatient basis by physicians in their offices, independent laboratories, or by exclusive service contract with the department will be provided to recipients and paid as specified in WAC 388-87-075.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-86-055, filed 12/3/81; Order 264 (part), § 388-86-055, filed 11/24/67.]

**WAC 388-86-067 Mental health center services.** (1) The department shall provide mental health or day health care services to a cash assistance recipient under SSI, state supplement or AFDC and to an eligible recipient of a state funded continuing general assistance grant. A recipient of the limited casualty program may be provided mental health center services. The services provided through these agencies are not subject to the limitation on the number of visits under the provisions of WAC 388-86-095.

(2) Community mental health services provided shall be as specified in a contract between the department and the participating center.

(3) For the purposes of this section, community mental health center shall mean an agency or program which meets the following criteria:

(a) Is included as a part of the approved county mental health plan, or is approved by the department to hold

a subcontract from the area agency on aging to provide day health care.

(b) Receives state grant-in-aid funds as authorized by the Community Mental Health Services Act, chapter 71.24 RCW, and as described in WAC 275-25-030, or receives money through a contractual agreement with the area agency on aging for the provision of day health care.

(c) Provides treatment by, or under the direction of, a licensed doctor of medicine who has sufficient knowledge of the caseload and clinical program to be assured that the quality of the service is satisfactory.

(4) An agency or program must be either:

(a) An outpatient clinic, with its own governing body, administration and staff, or

(b) A county-administered outpatient clinic, or

(c) A separate identifiable outpatient clinic of a general hospital or psychiatric inpatient facility, or

(d) An outpatient clinic with a residential component within its administrative structure, or

(e) A separate identifiable outpatient clinical program of an agency which has other service functions.

(5) Agencies which have functions in addition to outpatient care (see subsection (4)(c), (d), and (e) of this section) shall adhere to the following criteria:

(a) Specific staff are delineated to provide outpatient clinical services exclusively,

(b) Outpatient clinical records are separated from other service records of the agency,

(c) The center's accounting and bookkeeping procedures are such that:

(i) If the center has an existing contract, a review or audit finds that these procedures assure adequate fiscal accountability. Audits will be conducted by either the department or the office of the state auditor.

(ii) If an agency is applying for a contract, the application will be accompanied by a statement from a licensed or certified public accountant reflecting the accountant's unqualified opinion of the adequacy, accuracy and accountability of the agency's records.

(6) The final decision regarding a mental health center's participation in this program shall be made by the department.

(7) Mental health service records—content:

An adequate clinical record shall be maintained for each eligible client receiving outpatient mental health services in a mental health center. The clinical records at a minimum shall contain the following:

(a) History,

(b) Diagnostic/evaluative statements,

(c) Treatment plan,

(d) Treatment notes,

(e) Periodic treatment review,

(f) Documentation of case conferences,

(g) Clinical summaries on termination of service.

(8) Subcontracts:

An agency which has a contract under this section shall not enter into subcontracts for any work agreed upon under the contract without obtaining prior written approval of the department from the office of medical assistance.

[Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-86-067, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-067, filed 4/27/81; 79-06-034 (Order 1402), § 388-86-067, filed 5/16/79; 78-10-077 (Order 1346), § 388-86-067, filed 9/27/78; Order 1196, § 388-86-067, filed 3/3/77; Order 1067, § 388-86-067, filed 11/17/75; Order 924, § 388-86-067, filed 4/15/74; Order 777, § 388-86-067, filed 3/1/73; Order 696, § 388-86-067, filed 6/29/72; Order 549, § 388-86-067, filed 3/31/71, effective 5/1/71; Order 501, § 388-86-067, filed 12/9/70.]

#### WAC 388-86-071 Private duty nursing services.

Private duty nursing services may be approved when:

(1) The individual would otherwise be institutionalized;

(2) The care is provided in a noninstitutional setting;

(3) The patient requires more individual and continuous nursing care than is available through home health nursing services;

(4) Provided by a registered or licensed practical nurse under the direction of a physician;

(5) The services are the least costly alternative to care in a medical institution; and

(6) Prior approval is obtained from the office of the medical director.

[Statutory Authority: RCW 74.08.090. 83-01-056 (Order 1923), § 388-86-071, filed 12/15/82.]

#### WAC 388-86-075 Outpatient and emergency care.

(1) No authorization is required for categorically needy or limited casualty program—medically needy recipients to receive outpatient service, acute and emergent outpatient surgical care and other emergency care performed on an outpatient basis in a hospital. Justification for the service must be presented for payment.

(2) A recipient of the limited casualty program—medically indigent must have medical consultant approval for emergency room services.

[Statutory Authority: RCW 74.08.090. 83-03-016 (Order 1937), § 388-86-075, filed 1/12/83; 81-16-033 (Order 1685), § 388-86-075, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-075, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-075, filed 10/9/80; 79-06-034 (Order 1402), § 388-86-075, filed 5/16/79; Order 1196, § 388-86-075, filed 3/3/77; Order 1112, § 388-86-075, filed 4/15/76; Order 696, § 388-86-075, filed 6/29/72; Order 566, § 388-86-075, filed 5/19/71; Order 264 (part), § 388-86-075, filed 11/24/67.]

#### WAC 388-86-080 Oxygen service.

(1) Oxygen shall be made available through contract to include regulators, humidifiers, masks and related supplies to recipients under age sixty-five in their own homes when requested by the attending physician.

(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) Physical examinations are provided 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.

(2) Consultant or specialist fees for covered services shall be paid in accordance with local medical bureau practices with the following limitations:

(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.

(3) Physicians' services are subject to the following limitations:

(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 shall be provided by a psychiatrist and is generally limited to one hour per month or equivalent combinations. Additional hours of outpatient psychotherapy require prior approval and will be provided only when medically necessary. Except as described in WAC 388-86-067(1), the limits on physician calls set by subsection (4)(a) and (b) of this section also apply to outpatient psychotherapy.

(d) For limitations on out-of-state physicians' services see WAC 388-86-115.

(4) Nonemergent surgical procedures require prior approval except for:

(a) Minor surgery and diagnostic procedures performed in a physician's office.

(b) Other procedures listed in numbered memoranda published by the division of medical assistance.

(5) Cataract surgery is 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.

(6) Contact lenses are 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. 86-18-003 (Order 2413), § 388-86-095, filed 8/21/86; 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 388-86-09601 Podiatric services.** (1) Medically necessary podiatric services shall be provided to include:

(a) Evaluation, diagnosis, and treatment of skin disease, infections, inflammation, ulcers, and symptomatic conditions such as bursitis, osteoarthritis and tendonitis.

(b) Reductions of fractures and dislocations, and treatment of sprains and strains.

(c) Surgery for structural and pathological ailments such as bunions, exostosis, hammertoes, neuromas, and ingrown toenails.

(d) Initial diagnostic services in connection with conditions whose subsequent treatment would be excluded as routine palliative care.

(e) One visit every six months may be permitted for debridement and cutting of mycotic toenails.

(2) Elective surgery requires prior approval of the medical director or designee. Where less expensive, more conservative treatment is available, surgery will not be approved.

(3) The following services shall be excluded:

(a) Routine foot care that includes medically unnecessary removal of corns, warts, or calluses, trimming of

nails and other hygienic and preventive care except as specified in subsection (4) of this section.

(b) Treatment of flat foot.

(c) Treatment undertaken to correct a subluxated structure of the foot as an isolated entity.

(d) Supportive devices for the feet, such as orthopedic shoes.

(e) Procedures regarded as experimental.

(4) Where a person has a severe systemic condition that would result in circulatory embarrassment or desensitization in the legs or feet, more frequent foot care may be provided when:

(a) The performance of such procedures by unskilled person might pose a hazard.

(b) The severity of the condition has been established by clinical or physical findings.

(c) Such care has received prior approval of the medical director or designee.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-86-09601, filed 12/3/81; 81-16-033 (Order 1685), § 388-86-09601, filed 7/29/81.]

**WAC 388-86-097 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 388-86-100 Durable medical equipment--Prosthetic devices.** (1) The division of medical assistance will authorize the purchase and/or rental of medically necessary medical equipment, prosthetic devices, and other disposable/nonreusable medical supplies when the division is the payor of last resort and when the item requested:

(a) Will reduce the length of hospitalization,

(b) Will aid the rehabilitation of an employable person,

(c) Is not included with other reimbursement methodologies such as, but not limited to, diagnosis related group (DRG) for hospital inpatients, or a nursing homes per diem reimbursement; and

(d) Will enable a recipient to return to or continue to live in his/her own home;

(e) Will be used exclusively by a nursing home recipient for whom it is requested, for a permanent disability.

(2) Medical equipment and supplies purchased or reissued by the division of medical assistance become the property of the recipient for whom they are purchased/reissued.

(3) The division of medical assistance will normally authorize the purchase and/or repair of only one wheelchair, manual or power-drive, per recipient. However, another wheelchair will be provided and/or repaired when medically necessary.

(4) Durable medical equipment, prosthetic devices and disposable/nonreusable supplies that require approval prior to delivery of service include: Prosthetic limbs; orthotics for the upper and lower extremity; impression casting; orthopedic shoes and braces for orthopedic shoes; osteogenesis stimulator-noninvasive; certain communication devices; transcutaneous nerve stimulators; walk aids with a seat-wheels and brakes; drop-arm commodes; wheeled shower chairs; blood pressure kits; blood glucose monitors; air and gel cushions; fracture frames; wheelchairs; wheelchair repair parts and accessories; hospital beds; diapers and labor charges.

[Statutory Authority: RCW 74.08.090. 86-03-047 (Order 2329), § 388-86-100, filed 1/15/86; 82-17-072 (Order 1868), § 388-86-100, filed 8/18/82; 81-16-033 (Order 1685), § 388-86-100, filed 7/29/81; 81-06-003 (Order 1610), § 388-86-100, filed 2/19/81; 78-10-077 (Order 1346), § 388-86-100, filed 9/27/78; 78-02-024 (Order 1265), § 388-86-100, filed 1/13/78; Order 1233, § 388-86-100, filed 8/31/77; Order 1019, § 388-86-100, filed 4/30/75; Order 938, § 388-86-100, filed 5/23/74; Order 499, § 388-86-100, filed 12/2/70; Order 480, § 388-86-100, filed 9/22/70; Order 463, § 388-86-100, filed 6/23/70; Order 419, § 388-86-100, filed 12/31/69; Order 385, § 388-86-100, filed 8/27/69; Order 264 (part), § 388-86-100, filed 11/24/67.]



**WAC 388-86-105 Voluntary agency.** Medical care shall be provided for a child or unmarried mother certified by the department as eligible and receiving the services of a voluntary agency or maternity home.

[Statutory Authority: RCW 74.08.090, 81-06-003 (Order 1610), § 388-86-105, filed 2/19/81; Order 1151, § 388-86-105, filed 9/8/76; Order 482, § 388-86-105, filed 9/29/70, effective 11/1/70; Order 463, § 388-86-105, filed 6/23/70; Order 264 (part), § 388-86-105, filed 11/24/67.]

**WAC 388-86-110 X-ray services.** (1) Therapeutic x-rays (deep x-ray and related radiation treatment) will be provided when requested by the attending physician.

(2) Diagnostic and follow-up x-rays do not require the approval of the medical consultant, but films shall be made available to the consultant on request.

[Statutory Authority: RCW 74.08.090, 78-10-077 (Order 1346), § 388-86-110, filed 9/27/78; Order 264 (part), § 388-86-110, filed 11/24/67.]

**WAC 388-86-112 Physical medicine and rehabilitation evaluation and 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 388-86-115 Medical care provided out-of-state.** (1) The department shall authorize and provide comparable medical care services to a recipient of medical assistance (MA) or limited casualty program—medically needy who is temporarily outside the state to the same extent that such medical care services are furnished to an eligible recipient in the state, subject to the exceptions and limitations in this section.

(2) Bordering cities listed in chapter 388-82 WAC are not considered "out-of-state" and are excluded from these provisions. When a recipient goes to another state, other than the specified bordering cities, specifically for the purpose of obtaining medical care that is available in the state of Washington, only emergency care will be provided by the state of Washington.

(3) State funded medical care is not provided out-of-state. Medical services in designated bordering cities may be authorized.

(4) The medical consultant shall review all cases involving out-of-state medical care to determine whether

the services are within the scope of the medical assistance program.

(5) Medical assistance may be provided only in areas of Canada that border on the United States when no other resources are available.

[Statutory Authority: RCW 74.08.090, 81-16-033 (Order 1685), § 388-86-115, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-115, filed 4/27/81; 79-06-034 (Order 1402), § 388-86-115, filed 5/16/79; 79-01-002 (Order 1359), § 388-86-115, filed 12/8/78; Order 799, § 388-86-115, filed 5/25/73; Order 781, § 388-86-115, filed 3/16/73; Order 303, § 388-86-115, filed 9/6/68; Order 264 (part), § 388-86-115, filed 11/24/67.]

**WAC 388-86-120 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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#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-87-040	Payment—Anesthetization services. [Order 1203, § 388-87-040, filed 4/1/77; Order 264 (part), § 388-87-040, filed 11/24/67.] Repealed by 80-13-020 (Order 1542), filed 9/9/80. Statutory Authority: RCW 74.08.090.
388-87-047	Payment—Chiropractic services. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-87-047, filed 9/9/80; Order 1203, § 388-87-047, filed 4/1/77; Order 1166, § 388-87-047, filed 10/27/76; Order 1112, § 388-87-047, filed 4/15/76; Order 386, § 388-87-047, filed 8/27/69.] Repealed by 81-10-016 (Order 1648), filed 4/27/81. Statutory Authority: RCW 74.08.090.
388-87-055	Payment—Eyeglasses and examinations. [Order 386, § 388-87-055, filed 8/27/69; Order 264 (part), § 388-87-055, filed 11/24/67.] Repealed by Order 994, filed 12/31/74.
388-87-085	Payment—Pharmacy services. [Order 264 (part), § 388-87-085, filed 11/24/67.] Repealed by Order 316, filed 10/31/68.
388-87-100	Payment—Special duty nursing. [Order 1112, § 388-87-100, filed 4/15/76; Order 794, § 388-87-100, filed 4/26/73; Order 264 (part), § 388-87-100, filed 11/24/67.] Repealed by 78-10-077 (Order 1346), filed 9/27/78. Statutory Authority: RCW 74.08.090.

#### WAC 388-87-005 Payment—Eligible providers defined. (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 388-87-008 Disclosure by providers—Information on ownership and control.** (1) The department shall not approve a provider agreement or a contract and shall terminate an existing agreement or contract, if the provider fails to disclose ownership or control information as required by this section.

(2) A disclosing entity shall disclose the following information:

(a) The name and address of each person with an ownership or control interest in the disclosing entity or any subcontractor in which the disclosing entity has a direct or indirect ownership of five percent or more;

(b) Whether any of the persons named, in compliance with this subsection, is related to another as spouse, parent, child, or sibling; and

(c) The name of any other disclosing entity in which a person with an ownership or control interest in the disclosing entity also has an ownership or control interest.

(3) On request by the department the disclosing entity shall within thirty-five days submit full and complete information about:

(a) The ownership of any subcontractor with whom the provider has had business transactions totaling more than twenty-five thousand dollars during a twelve-month period ending on the date of request; and

(b) Any significant business transactions between the provider and any wholly owned supplier, or between the

provider and any subcontractors, during the five-year period ending on the date of the request.

(4) The disclosing entity shall disclose the following information on persons convicted of crimes who:

(a) Has ownership or control interest in the provider, or is an agent or managing employee of the provider; and

(b) Has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or the Title XX services program since the inception of those programs.

(5) "Disclosing entity" means a Medicaid provider (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, health-related services for which it claims payment under any plan or program administered by the department.

(6) "Group of practitioners" means two or more health care practitioners who practice their profession at a common location (whether or not they share common facilities, common supporting staff, or common equipment).

(7) "Person with an ownership or control interest" means a person or corporation that:

(a) Has an ownership interest totalling five percent or more in a disclosing entity;

(b) Has an indirect ownership interest equal to five percent or more in a disclosing entity;

(c) Has a combination of direct and indirect ownership interests equal to five percent or more in a disclosing entity;

(d) Owns an interest of five percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least five percent of the value of the property or assets of the disclosing entity;

(e) Is an officer or director of a disclosing entity that is organized as a corporation; or

(f) Is a partner in a disclosing entity that is organized as a partnership.

[Statutory Authority: RCW 74.08.090, 83-10-077 (Order 1958), § 388-87-008, filed 5/4/83.]

#### **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 388-87-011 Conditions of payment—Medicare deductible and coinsurance—When paid by department.** The department shall be responsible for the deductible and coinsurance amounts for recipients participating in the benefits of Parts A and B of Medicare (Title XVIII of the Social Security Act) when the following conditions are met:

(1) Total combined reimbursement to the provider from Medicare and the department does not exceed the department's fee schedule, see WAC 388-87-010.

(2) The provider accepts assignment for Medicare payment.

[Statutory Authority: RCW 74.08.090. 83-13-071 (Order 1972), § 388-87-011, filed 6/16/83; 81-10-016 (Order 1648), § 388-87-011, filed 4/27/81; Order 1112, § 388-87-011, filed 4/15/76; Order 1015, § 388-87-011, filed 3/27/75.]

**WAC 388-87-012 Conditions of payment—Consultant's and specialist's services and fees.** (1) When services of a consultant or specialist are required, whether the patient has been referred by a physician or is being treated by the specialist as the attending physician, the 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 388-87-013 Conditions of payment—Hospital care.** (1) All hospital admissions require local medical consultant approval. Prior approval of the local medical consultant is required for all nonemergent hospital admissions.

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(2) Neither the department nor the recipient will be responsible for payment for additional days of hospitalization in the case of a hospitalized recipient when the PAS limitations have been exceeded and the provider has not obtained local medical consultant approval unless prior contractual arrangements are made by the department for a specified length of stay.

(3) A beneficiary of Title XVIII Medicare who is not in a state institution shall use his nonrenewable lifetime hospitalization reserve of sixty days before payment for hospitalization will be made from Title XIX funds.

[Statutory Authority: RCW 74.08.090. 83-03-016 (Order 1937), § 388-87-013, filed 1/12/83; 81-16-032 (Order 1684), § 388-87-013, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-013, filed 4/27/81; 80-13-020 (Order 1542), § 388-87-013, filed 9/9/80; 78-02-024 (Order 1265), § 388-87-013, filed 1/13/78; Order 1015, § 388-87-013, filed 3/27/75.]

**WAC 388-87-015 Billing limitations—One hundred twenty-day period.** (1) Providers shall submit their charges at least monthly and shall present their final charges not more than one hundred twenty days after termination of services. See RCW 74.09.160. An exception to this shall be made as a result of a fair hearing decision or court order involving a fair hearing decision which is favorable to the recipient. In such case, providers must present final charges to the department within one hundred twenty days of the day of the decision or the date the order was entered (see RCW 74.08.080).

(2) When it is obvious that clearance of resources for an applicant will require more time than the one hundred twenty-day billing period permits, an immediate request for permission for late billing shall be made to the department's state office. Permission for late billing cannot be granted if the request is received after expiration of the one hundred twenty-day billing period.

(3) The one hundred twenty-day billing limitation begins with the date of certification for retroactive medical coverage approved for payment. See chapter 388-80 WAC for definition of retroactive.

[Statutory Authority: RCW 74.08.090. 81-16-032 (Order 1684), § 388-87-015, filed 7/29/81; 79-12-048 (Order 1458), § 388-87-015, filed 11/26/79; 78-02-024 (Order 1265), § 388-87-015, filed 1/13/78; Order 1151, § 388-87-015, filed 9/8/76; Order 1061, § 388-87-015, filed 10/8/75; Order 970, § 388-87-015, filed 9/13/74; Order 879, § 388-87-015, filed 11/29/73; Order 739, § 388-87-015, filed 11/22/72; Order 264 (part), § 388-87-015, filed 11/24/67.]

**WAC 388-87-020 Subrogation.** The department shall not be responsible to pay for medical care for an applicant or recipient whose personal injuries are occasioned by the negligence or wrongdoing of another: *Provided, however,* That the director of the department may in his discretion furnish the medical care required as a result of such injury(ies) and the department shall thereby be subrogated to the applicant's or recipient's right of recovery therefore to the extent of the cost of medical care paid for by the department.

[Order 264 (part), § 388-87-020, filed 11/24/67.]

**WAC 388-87-025 Services requiring approval.** 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 388-87-030 Responsibility of physician--Patient admitted to hospital.** Admission to a hospital shall be requested by the attending physician. The signature of the attending physician on the department's hospital invoice is not required; however, the hospital must enter the diagnosis, justification for admission, and the physician's name.

[Statutory Authority: RCW 74.08.090. 81-16-032 (Order 1684), § 388-87-030, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-030, filed 4/27/81; 80-13-020 (Order 1542), § 388-87-030, filed 9/9/80; Order 1233, § 388-87-030, filed 8/31/77; Order 911, § 388-87-030, filed 3/1/74; Order 879, § 388-87-030, filed 11/29/73; Order 837, § 388-87-030, filed 7/26/73; Order 386, § 388-87-030, filed 8/27/69; Order 336, § 388-87-030, filed 2/3/69; Order 304, § 388-87-030, filed 9/6/68; Order 264 (part), § 388-87-030, filed 11/24/67.]

**WAC 388-87-035 Payment--Transportation for medical reasons.** (1) Payment for patient transportation shall be made for eligible individuals according to WAC 388-86-085.

(2) Payment for patient transportation services shall be made on the basis of usual and customary charges or the rates established by the department, whichever is lower. 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 388-87-045 Payment--Blood.** (1) Payment shall be made for whole blood or blood derivatives only when it is not available to the patient from other sources.

(a) For persons eligible for Medicare benefits, the above applies only to the first three pints of blood or plasma in any spell of illness.

(b) Payment will not be made for blood or blood derivatives when the source is by donation.

(2) Payment will be made for the service charges necessary for handling and processing the blood or blood derivatives unless provided to an individual who is hospitalized. In the latter case, payment will be included in the total payment to the hospital.

(3) Administration of blood or blood derivatives on an outpatient basis in a hospital may be added to the total payment for outpatient service. Additional payments for blood bank service charges will be made when applicable.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-87-045, filed 12/3/81; Order 406, § 388-87-045, filed 11/24/69; Order 304, § 388-87-045, filed 9/6/68; Order 264 (part), § 388-87-045, filed 11/24/67.]

**WAC 388-87-04701 Payment--Chiropractic services.** (1) Payment shall be made by the department for medically necessary services rendered by a licensed chiropractor as described in WAC 388-86-02301.

(2) Payment shall be subject to the following limitations:

(a) Payment is restricted to a maximum of twenty treatments per calendar year per recipient subsequent to an initial visit payable only the first time a new patient is seen.

(b) Payment for x-rays is limited to single area films when the treatment area can be isolated. Maximum allowance is for one x-ray per area, per year.

(c) Payment will not be made for modalities such as light, heat, hydrotherapy, and physiotherapy.

(d) Payment shall not be made for any food supplement, medication, or drug.

(e) Payment for chiropractic services received out of state is limited to three treatments for acute and emergent conditions for categorically needy recipients.

[Statutory Authority: RCW 74.08.090. 83-17-073 (Order 2011), § 388-87-04701, filed 8/19/83.]

**WAC 388-87-050 Payment--Dental services.** (1) The participating dentist shall bill the department his usual and customary fee using the department approved examination and treatment form.

(2) Payment for dental services is based on the department schedule of maximum allowances.

(3) Fees listed are the maximum permitted. If the dentist's fee is less than the maximum fee, the program will pay the customary fee of the participating dentist.

(4) If a service is performed for which no fee is listed, the dental consultant of the department may fix the fee in accordance with recommendations of the dental advisory committee.

(5) Necessary x-rays for diagnostic purposes may be paid for as a part of basic dental services.

[Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-87-050, filed 5/16/79; Order 1203, § 388-87-050, filed 4/1/77; Order 454, § 388-87-050, filed 5/20/70; Order 419, § 388-87-050, filed 12/31/69; Order 386, § 388-87-050, filed 8/27/69; Order 264 (part), § 388-87-050, filed 11/24/67.]

**WAC 388-87-060 Payment--Extended care patient--Coinsurance.** The recipient who is entitled to a maximum of 100 days of Medicare benefits in skilled nursing facility for the same spell of illness shall pay from his available resources and income the coinsurance, beginning the 21st day of his extended care. When the recipient has insufficient resources and income, according to department standards, the department will pay the coinsurance.

[Order 1112, § 388-87-060, filed 4/15/76; Order 336, § 388-87-060, filed 2/3/69; Order 264 (part), § 388-87-060, filed 11/24/67.]

**WAC 388-87-065 Payment--Home health agency.** Fees for home health services shall be paid within rates established by the division of medical assistance. The department will pay for the services of a home health agency certified under Title XVIII for an eligible recipient under age sixty-five and for those recipients sixty-five years of age and over who are in need of services of a type or degree for which Medicare does not pay. Approval by the office of the medical director is required for care which extends beyond the limits established by the division of medical assistance.

[Statutory Authority: RCW 74.08.090. 82-21-024 (Order 1891), § 388-87-065, filed 10/13/82; 80-13-020 (Order 1542), § 388-87-065, filed 9/9/80; Order 1112, § 388-87-065, filed 4/15/76; Order 593, § 388-87-065, filed 8/25/71; Order 264 (part), § 388-87-065, filed 11/24/67.]

**WAC 388-87-070 Payment--Hospital 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 388-87-075 Payment—Laboratory services.** (1) A physician using his own laboratory to provide necessary laboratory services shall bill the department according to the schedule of maximum allowances.

(2) A physician using the services of an independent laboratory shall request services for a recipient in the same manner he requests services for his private patient.

(3) An independent laboratory must bill the department directly. No reimbursement will be made to a physician for services performed by an independent laboratory.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-87-075, filed 12/3/81; 81-16-032 (Order 1684), § 388-87-075, filed 7/29/81; 80-13-020 (Order 1542), § 388-87-075, filed 9/9/80; Order 995, § 388-87-075, filed 12/31/74; Order 485, § 388-87-075, filed 10/13/70; Order 406, § 388-87-075, filed 11/24/69; Order 264 (part), § 388-87-075, filed 11/24/67.]

**WAC 388-87-077 Payment—Mental health center services.** Payment for approved mental health center services to eligible recipients as defined in WAC 388-86-067 shall be on the basis of a contract between the department and participating mental health center.



Medical consultant approval for these services is not required.

[Statutory Authority: RCW 74.08.090. 81-10-016 (Order 1648), § 388-87-077, filed 4/27/81; 79-06-034 (Order 1402), § 388-87-077, filed 5/16/79; Order 1067, § 388-87-077, filed 11/17/75; Order 924, § 388-87-077, filed 4/15/74; Order 778, § 388-87-077, filed 3/1/73; Order 582, § 388-87-077, filed 7/20/71; Order 502, § 388-87-077, filed 12/9/70.]

**WAC 388-87-080 Payment--Oxygen.** 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.]

**WAC 388-87-105 Payment--Medical care outside state of Washington.** (1) Medical care furnished in designated bordering cities is not considered to be out-of-state care. Payment is made to the provider of service as for care provided within the state of Washington. Provider licensure requirements, however, would be those of the state in which care is rendered.

(2) Payment is not authorized for out-of-state medical care furnished to state-funded recipients.

(3) The three-month retroactive coverage may apply to out-of-state care given for covered medical care to eligible applicants.

(4) When out-of-state service is provided (excluding state office approved care in a skilled nursing home) in a state with a Title XIX medical care program, payment shall be authorized at the rate paid by the medical care program of the state in which the service is rendered. If provided in a state without a Title XIX program, payment shall be authorized at the rate charged, but not to exceed the rate paid for the service under Title XVIII Medicare.

(5) Out-of-state providers shall be furnished with necessary billing forms and instructions.

(6) If the deductible or coinsurance portions of Medicare are claimed, it will be necessary for the provider to submit his billing to the intermediary or carrier in his own state on the appropriate Medicare billing form. If the state of Washington is checked as being responsible for medical billing on the form, the intermediary or carrier may bill on behalf of the provider or may return the billing to the provider for submitting to the state.

(7) Approved care in out-of-state skilled nursing home will be paid either at the rates for care charged in that state for recipients of public assistance, or in an amount not to exceed the rate for skilled nursing home care in the state of Washington, whichever is the lesser amount. Exceptions to the rule in this subsection may be granted only by the director of the division of medical assistance or his designee.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-87-105, filed 12/3/81; 81-16-032 (Order 1684), § 388-87-105,

filed 7/29/81; 81-10-016 (Order 1648), § 388-87-105, filed 4/27/81; 80-13-020 (Order 1542), § 388-87-105, filed 9/9/80; Order 1203, § 388-87-105, filed 4/1/77; Order 1112, § 388-87-105, filed 4/15/76; Order 1061, § 388-87-105, filed 10/8/75; Order 879, § 388-87-105, filed 11/29/73; Order 667, § 388-87-105, filed 3/23/72; Order 567, § 388-87-105, filed 5/19/71; Order 336, § 388-87-105, filed 2/3/69; Order 304, § 388-87-105, filed 9/6/68; Order 264 (part), § 388-87-105, filed 11/24/67.]

**WAC 388-87-110 Durable medical equipment--Prosthetic devices.** (1) Durable medical equipment is reimbursed using a fee schedule with maximums based on manufacturer's suggested retail prices and, in certain instances, medicare maximums.

(2) The reimbursement for medical equipment and prosthetic devices that are purchased/rented shall include but not be limited to:

(a) The manufacture's [manufacturer's] warranty; and

(b) Any adjustments and/or modifications required to the equipment within three months of the date of service (for purchases) or during the total rental period (for rentals), except those occasioned by changes in the patient's condition; and

(c) Instruction to the recipient in the safe usage of the equipment; and

(d) Cost of freight from the manufacturer and delivery to the recipient's residence and, when appropriate, to the room in which the equipment will be used.

[Statutory Authority: RCW 74.08.090. 86-03-047 (Order 2329), § 388-87-110, filed 1/15/86.]

**Chapter 388-88 WAC**

**MEDICAL CARE--NURSING HOME CARE**

**WAC**

- 388-88-001 Nursing home care.
- 388-88-010 Name of nursing home.
- 388-88-050 Adequate nursing home care.
- 388-88-075 Nursing home contract--Noncompliance.
- 388-88-080 Utilization review and classification of clients.
- 388-88-081 Skilled nursing care residents.
- 388-88-082 Minimum licensed personnel requirements for skilled nursing facilities.
- 388-88-083 Intermediate nursing care residents.
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- 388-88-095 Placement of patient.
- 388-88-100 Transfer or relocation.
- 388-88-101 Residents' rights.
- 388-88-102 Discharge planning.
- 388-88-105 Patient transfer from state hospital or school for retarded to nursing home.
- 388-88-110 Nursing home placement of public assistance recipient referred from Alaska.
- 388-88-115 Discharge or leave of nursing home resident.
- 388-88-119 Provider report of a disturbance.

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

- 388-88-005 Nursing home care. [Order 342, § 388-88-005, filed 3/20/69; Order 264 (part), § 388-88-005, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
- 388-88-007 IMR facilities. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-88-007, filed 6/1/78.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.

- 388-88-015 Classification of nursing home. [Order 342, § 388-88-015, filed 3/20/69; Order 264 (part), § 388-88-015, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
- 388-88-020 Application for classification. [Order 342, § 388-88-020, filed 3/20/69; Order 264 (part), § 388-88-020, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
- 388-88-025 Change in authorized manager. [Order 342, § 388-88-025, filed 3/20/69; Order 264 (part), § 388-88-025, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
- 388-88-030 Change in business organization of home. [Order 342, § 388-88-030, filed 3/20/69; Order 264 (part), § 388-88-030, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
- 388-88-035 Classification of nursing home--Change of ownership. [Order 342, § 388-88-035, filed 3/20/69; Order 264 (part), § 388-88-035, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
- 388-88-040 Change in classification of nursing home--Application. [Order 342, § 388-88-040, filed 3/20/69; Order 264 (part), § 388-88-040, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
- 388-88-045 Closure of nursing home. [Order 1257, § 388-88-045, filed 12/21/77; Order 1168, § 388-88-045, filed 11/3/76; Order 342, § 388-88-045, filed 3/20/69; Order 264 (part), § 388-88-045, filed 11/24/67.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-051 Additional services required for IMR residents. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-88-051, filed 6/1/78.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-055 Grant for clothing and incidentals--Record keeping--Patient's money. [Order 930, § 388-88-055, filed 4/25/74; Order 342, § 388-88-055, filed 3/20/69; Order 264 (part), § 388-88-055, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
- 388-88-060 Skilled nursing facility services in hospitals. [Order 1168, § 388-88-060, filed 11/3/76; Order 964, § 388-88-060, filed 8/19/74; Order 930, § 388-88-060, filed 4/25/74; Order 342, § 388-88-060, filed 3/20/69; Order 264 (part), § 388-88-060, filed 11/24/67.] Repealed by Order 1257, filed 12/21/77.
- 388-88-065 Continuity of patient care. [Order 342, § 388-88-065, filed 3/20/69; Order 264 (part), § 388-88-065, filed 11/24/67.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-070 Justification of rate payment. [Order 1168, § 388-88-070, filed 11/3/76; Order 342, § 388-88-070, filed 3/20/69; Order 264 (part), § 388-88-070, filed 11/24/67.] Repealed by Order 1262, filed 12/30/77.
- 388-88-085 Payment standards--Rates--Procedures. [Order 1168, § 388-88-085, filed 11/3/76; Order 879, § 388-88-085, filed 11/29/73; Order 342, § 388-88-085, filed 3/20/69; Order 264 (part), § 388-88-085, filed 11/24/67.] Repealed by Order 1262, filed 12/30/77.
- 388-88-086 Minimum staffing requirements--IMR. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-88-086, filed 6/1/78.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-088 Classification of IMR clients. [Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-88-088, filed 6/1/78.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-090 Receipt of supplemental compensation for nursing home care. [Order 1168, § 388-88-090, filed 11/3/76; Order 631, § 388-88-090, filed 11/24/71; Order 342, § 388-88-090, filed 3/20/69; Order 264

- (part), § 388-88-090, filed 11/24/67.] Repealed by Order 1262, filed 12/30/77.
- 388-88-117 Social leave for IMR clients. [Statutory Authority: RCW 74.08.044, 79-01-084 (Order 1365), § 388-88-117, filed 1/3/79.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-120 Extended care facility—Payment for co-insurance. [Order 631, § 388-88-120, filed 11/24/71; Order 342, § 388-88-120, filed 3/20/69; Order 264 (part), § 388-88-120, filed 11/24/67.] Repealed by Order 1257, filed 12/21/77.

**WAC 388-88-001 Nursing home care.** (1) The department has the administrative and legal responsibility to purchase nursing home and nursing home based (out-patient services, WAC 248-14-295) care for eligible persons. The department has the responsibility to assure to the state that adequate care, service, and protection are provided through licensing, certification and utilization control activities.

(2) Each Title XIX nursing home will be certified as a skilled nursing facility, intermediate care facility, skilled nursing and intermediate care facility, and/or institution for the mentally retarded and residents with related conditions (IMR).

(3) A contract for the provision of care to medical assistance clients at an ICF facility will be for ICF care only. Except as provided in WAC 388-88-001(4) contracts for the provision of care at all other facilities will be dual (ICF/SNF). Medical assistance clients classified as requiring either intermediate level or skilled nursing care must be provided care only in a facility so certified.

(4) A hospital may elect to provide skilled nursing facility and/or intermediate care facility services to medical assistance clients. The hospital must be certified, and all rules and regulations relating to skilled nursing facilities and/or intermediate care facilities shall apply.

[Statutory Authority: RCW 74.42.620, 82-18-064 (Order 1871), § 388-88-001, filed 9/1/82. Statutory Authority: RCW 74.08.090 and 74.09.120, 78-06-080 (Order 1300), § 388-88-001, filed 6/1/78; Order 1257, § 388-88-001, filed 12/21/77.]

**WAC 388-88-010 Name of nursing home.** The department will recognize only the official name of a nursing home as shown on the nursing home license application or subsequent written notification of a name change.

[Statutory Authority: RCW 74.42.620, 82-18-064 (Order 1871), § 388-88-010, filed 9/1/82; Order 342, § 388-88-010, filed 3/20/69; Order 264 (part), § 388-88-010, filed 11/24/67.]

**WAC 388-88-050 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.]

**WAC 388-88-075 Nursing home contract--Non-compliance.** (1) When a home is in violation of the terms of the contract, the department may temporarily suspend the referral of clients to the home. Whenever referral is suspended under this section, the home will immediately be notified by phone and confirmed in writing of the suspension and of the basis for the department's action. Suspension may continue until the department determines the infraction has been satisfactorily corrected.

(2) Referral of clients is suspended when a home fails to provide staffing commensurate with the terms of the contract. A home, unable to provide the level of care for which a client is classified, shall not accept or retain clients whose unique needs cannot be met. Violations creating a health or safety hazard to individual residents shall constitute grounds for termination of the contract by the department (chapter 18.51 RCW).

(3) When the department terminates a contract, the home will be notified in writing of the contract termination and the basis for the department's action. The department will assist in the movement of medical assistance clients needing continued nursing care.

[Statutory Authority: RCW 74.42.620, 82-18-064 (Order 1871), § 388-88-075, filed 9/1/82; Order 1257, § 388-88-075, filed 12/21/77; Order 1168, § 388-88-075, filed 11/3/76; Order 342, § 388-88-075, filed 3/20/69; Order 264 (part), § 388-88-075, filed 11/24/67.]

**WAC 388-88-080 Utilization review and classification of clients.** (1) Level of care determinations in skilled nursing and intermediate care facilities are made by the nursing care consultants in accordance with the nursing

care consultants' professional judgment and in accord with WAC 388-88-081 and 388-88-083.

(2) In making classification recommendations for nursing home placement, the department's personnel shall utilize the guidelines for skilled and intermediate nursing home care in WAC 388-88-081 and 388-88-083.

(3) The classification of each individual nursing home client shall periodically be reviewed by the nursing care consultant to assure appropriate use of medicaid services by:

(a) Assessing client(s) care needs and adequacy of services provided.

(b) Determining the need for continued stay.

(c) Identifying the level of care required to meet the nursing care needs of the client.

(4) Classification changes shall be made in accordance with the needs of the clients and in accord with appeal and relocation procedures outlined in WAC 388-88-101.

[Statutory Authority: RCW 74.42.620, 82-18-064 (Order 1871), § 388-88-080, filed 9/1/82; Order 1257, § 388-88-080, filed 12/21/77; Order 1168, § 388-88-080, filed 11/3/76; Order 342, § 388-88-080, filed 3/20/69; Order 264 (part), § 388-88-080, filed 11/24/67.]

**WAC 388-88-081 Skilled nursing care residents.** Residents requiring skilled nursing care are residents whose condition, needs, and/or services are of such complexity and sophistication so as to require frequent or continuous observation and intervention of a registered nurse, and the supervision of a licensed physician. These residents require ongoing assessments of physiological and/or psychological needs, and the development and implementation of a comprehensive plan of care involving interdisciplinary planning input and coordination. Resident needs include ongoing evaluations, care plan revisions, and the teaching necessary to provide for residents whose condition is unstable and/or complex.

[Statutory Authority: RCW 74.42.620, 83-01-016 (Order 1921), § 388-88-081, filed 12/6/82; 82-18-064 (Order 1871), § 388-88-081, filed 9/1/82; Order 1257, § 388-88-081, filed 12/21/77.]

**WAC 388-88-082 Minimum licensed personnel requirements for skilled nursing facilities.** The facility shall meet all staffing requirements as defined in chapter 248-14 WAC.

[Statutory Authority: RCW 74.42.620, 82-18-064 (Order 1871), § 388-88-082, filed 9/1/82; Order 1257, § 388-88-082, filed 12/21/77.]

**WAC 388-88-083 Intermediate nursing care residents.** Residents requiring intermediate nursing care are residents whose physiological and/or psychological functioning is stable, but require individually planned treatment and services under the daily direction of a registered nurse or a licensed nurse with registered nurse consultation as provided by exemption and the supervision of a licensed physician. The program is directed toward maintenance of maximum independence and return to the community whenever possible. The program includes an established treatment regimen involving more

than supervision, assistance with personal care, and protection.

[Statutory Authority: RCW 74.42.620, 83-01-016 (Order 1921), § 388-88-083, filed 12/6/82; 82-18-064 (Order 1871), § 388-88-083, filed 9/1/82; Order 1257, § 388-88-083, filed 12/21/77.]

**WAC 388-88-084 Minimum licensed personnel requirements for intermediate care facilities.** (1) A licensed nurse shall be employed on day duty as health services supervisor. The licensed nurse shall direct all nursing care and coordinate personal care services given in the ICF, and shall be employed full time (minimum 8-hour day, 40-hour week). Sufficient licensed nursing staff shall be provided to meet necessary nursing care needs.

(2) A licensed nurse shall be available for relief of the health services supervisor.

(3) If any resident requires administration of medications or other services requiring a licensed nurse within the time periods of the evening and night shifts, there must be licensed nursing personnel available to ensure safe practice consistent with the Nurse Practice Act of the state of Washington.

(4) If the health services supervisor is not a registered nurse, at least four hours a week of registered nurse consultation must be provided in accordance with 45 CFR 249.12 (a)(9)(i).

(5) If the ICF is located within a SNF, the director of nursing services of the SNF may serve as health services supervisor of the ICF.

[Order 1257, § 388-88-084, filed 12/21/77.]

**WAC 388-88-095 Placement of patient.** Nursing home care must be requested by the patient's attending physician or Christian Science practitioner and the patient's classification must be determined by the designated representative of the department before placement or payment can be approved by the department.

[Order 1257, § 388-88-095, filed 12/21/77; Order 1168, § 388-88-095, filed 11/3/76; Order 631, § 388-88-095, filed 11/24/71; Order 342, § 388-88-095, filed 3/20/69; Order 264 (part), § 388-88-095, filed 11/24/67.]

**WAC 388-88-100 Transfer or relocation.** (1) The department is responsible for ensuring that individual medical assistance client's needs are identified and met, as provided by state and federal regulations. The department is therefore responsible for ensuring each client is authorized to receive care in a facility certified and capable of meeting the needs of the individual client and for ensuring necessary transfers are accomplished to provide appropriate continuity of care.

(2) Each medical assistance client admitted to a facility is transferred or discharged only for medical reasons, or for his or her welfare or the welfare of other clients, or for nonpayment for his or her stay. The determination shall be made by the department based on an assessment of the client, consultation with the provider, and a review of relevant records.

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(3) The department is responsible for initiating and facilitating client relocation if the services being provided are not commensurate with the client's needs. See WAC 388-88-075. This includes the following:

(a) Revocation or suspension of the nursing home license.

(i) Clients or next of kin, guardian or responsible party will be notified by letter from the department that thirty days after the mailing date of the letter, the facility will no longer be allowed to operate as a nursing home.

(ii) The client, therefore, will be required to relocate: *Provided*, That nothing in this section shall require a pretransfer notice be given when the secretary or his or her designee determines an immediate threat to health and/or safety exists.

(iii) Moves may be accomplished sooner at the request of the client or with the client's consent.

(b) Decertification, termination or nonrenewal of contract actions require stop payment of Title XIX funds.

(i) The decisions do not affect the provider's right to operate as a nursing home, but rather, the provider's eligibility to receive federal funds.

(ii) Clients must be informed in writing of provider's discontinued eligibility for Title XIX funds.

(c) Reclassifications requiring relocation are based on review and assessment by the designated representative of the department (WAC 388-88-080).

(i) The attending physician is informed of the classification determination and given an opportunity to provide additional information.

(ii) Prior to implementation of a change in the level of care, which will result in a transfer, the client or next of kin, guardian or responsible party shall be informed of relocation in writing. Written notification shall be thirty days prior to the effective date of the change pursuant to WAC 388-88-101.

(iii) The client will be informed of his or her right to request a fair hearing.

(4) A provider is responsible for initiating transfer or relocation of a client under the following circumstances:

(a) A provider may request a client be transferred or relocated only for medical reasons, or for his or her welfare or the welfare of other residents or for nonpayment of his or her stay. See WAC 388-88-075(2).

(i) The provider shall send a request in writing for relocation or discharge of a medical assistance client to the department. The request shall include the reason for the relocation or discharge.

(ii) The department shall approve or deny the request for relocation or discharge based on an on-site visit with the client and a review of his or her records, within thirty days following receipt of the request.

(iii) The facility administrator shall be informed of the department approval or denial of the request in writing.

(iv) If the provider's request is approved, the department shall notify the client and next of kin or guardian, or responsible party, in writing of the decision pursuant to WAC 388-88-101. The client and next of kin,

guardian or responsible party will be informed of the right to request a fair hearing.

(v) The client and the department will be allowed thirty days from the date the client is notified by the department to facilitate discharge planning and accomplish relocation.

(vi) Arrangements for relocation will be the responsibility of the client or next of kin, guardian or responsible party.

(vii) The provider must notify the community services office and the nursing care consultant of the relocation arrangements.

(b) Closure of a nursing home.

(i) When a nursing home provider decides to cease operation, the provider must notify the bureau of nursing home affairs in writing, giving thirty days notice.

(ii) The nursing home provider is responsible for written notification to all residents.

(iii) The department may assist residents in transfer and relocation appropriate to the individual care needs.

(5) The medical assistance client has a right to seek relocation and to select the nursing home he or she desires for placement. If this selection is available and appropriate to the client's medical care needs, relocation shall be arranged by the client or next of kin, guardian or responsible party.

[Statutory Authority: RCW 74.42.620, 82-18-064 (Order 1871), § 388-88-100, filed 9/1/82; Order 1257, § 388-88-100, filed 12/21/77; Order 1197, § 388-88-100, filed 3/17/77; Order 631, § 388-88-100, filed 11/24/71; Order 342, § 388-88-100, filed 3/20/69; Order 264 (part), § 388-88-100, filed 11/24/67.]

**WAC 388-88-101 Residents' rights.** (1) Except in cases specified in WAC 388-88-101(3), the medical assistance client or next of kin, guardian or responsible party or the guardian of the client, if the client has been adjudicated to be incompetent, must be informed in writing thirty days prior to the relocation or reclassification. Such notice must include:

(a) The reasons for the proposed change and/or transfer;

(b) A right to a conference with departmental representatives and any other individuals the client wishes to speak to within thirty days of receipt of such notice;

(c) The right to request a fair hearing within ninety days of receipt of the notice to contest the department's decision;

(d) The method by which a fair hearing may be obtained;

(e) The right to be represented at the fair hearing by an authorized representative;

(f) The existence of any legal services available in the community.

(2) A fair hearing request form shall be sent with the notice of relocation and/or reclassification.

(a) The client must request a fair hearing within thirty days of receipt of the reclassification notice in order to have the current level of care continued. Any proposed change and/or transfer shall be delayed pending the outcome of the appeal process.

(b) If the secretary or his or her designee finds a change in the level of care is not appropriate, no further

action shall be taken to change the level of care or transfer the patient, unless there is a change in the situation or circumstances at which time the request may be resubmitted.

(c) If the secretary or his or her designee affirms the determination to change the level of care and/or transfer, and no judicial review is filed within thirty days of the receipt of notice of determination, the department shall proceed with the planned action.

(d) Medical assistance clients assessed as no longer requiring nursing home care who refuse to transfer to another level of care will be ineligible for medicaid nursing home payment thirty days following the effective date of determination or thirty days following the fair hearing decision affirming the department's determination of not in need of nursing care.

(3) Advance notice is not required when:

(a) The medical assistance client or the next of kin, guardian or responsible party, requests a transfer in writing and waives the right to a period of notice.

(b) An immediate threat to the client's life or health, or that of others is present.

(c) The department judges the facility where the client resides is no longer able to provide Title XIX services due to:

(i) Termination of provider's contract;

(ii) Decertification of the provider;

(iii) Nonrenewal of provider's contract;

(iv) Revocation of provider's license;

(v) Emergency license suspension.

[Statutory Authority: RCW 74.42.620, 83-21-081 (Order 2039), § 388-88-101, filed 10/19/83; 82-18-064 (Order 1871), § 388-88-101, filed 9/1/82; Order 1257, § 388-88-101, filed 12/21/77; Order 1197, § 388-88-101, filed 3/17/77.]

**WAC 388-88-102 Discharge planning.** A suitable discharge and transfer plan must be prepared for each medical care assistance client. Discharge or transfer shall be dependent on the client care needs, services provided, and the best resources available to provide an appropriate continuum of care. The plan shall include provisions for continuity of care and mitigation of potential transfer trauma:

(1) Coordination and active participation by the client and/or client's next of kin, guardian or responsible party in the transfer preparation program;

(2) Pretransfer visit to the new facility, when the client's condition permits, to familiarize the client with new surroundings, and other residents;

(3) Coordination and communication of essential information concerning the client shall be provided in writing from:

(a) Hospital to nursing home;

(b) Nursing home to hospital;

(c) One nursing home to another;

(d) Any other alternatives to nursing home care.

(4) The department will assume responsibility for assisting with relocation and post-transfer follow-up in the following circumstances:

(a) Reclassification requiring relocation;

(b) Decertification actions;

- (c) Involuntary termination or nonrenewal of contract;
  - (d) Revocation or suspension of nursing home license.
- (5) The department shall participate in planning and will specify the location of available beds at the appropriate level of care consistent with the needs of the client when discharge is necessitated by:
- (a) Reclassification requiring relocation;
  - (b) Decertification actions;
  - (c) Involuntary termination or nonrenewal of contract;
  - (d) Revocation or suspension of nursing home license.

[Statutory Authority: RCW 74.42.620. 82-18-064 (Order 1871), § 388-88-102, filed 9/1/82; Order 1257, § 388-88-102, filed 12/21/77; Order 1197, § 388-88-102, filed 3/17/77.]

**WAC 388-88-105 Patient transfer from state hospital or school for retarded to nursing home.** The transfer of a patient, eligible for assistance, from a state hospital or school for the retarded to a licensed nursing home shall be effected through close coordination between units of the department.

[Order 631, § 388-88-105, filed 11/24/71; Order 342, § 388-88-105, filed 3/20/69; Order 264 (part), § 388-88-105, filed 11/24/67.]

**WAC 388-88-110 Nursing home placement of public assistance recipient referred from Alaska.** The department accepts responsibility for the nursing home placement of Alaskan recipients referred by the Alaska department of health and welfare.

[Order 342, § 388-88-110, filed 3/20/69; Order 264 (part), § 388-88-110, filed 11/24/67.]

**WAC 388-88-115 Discharge or leave of nursing home resident.** (1) A certified nursing home or hospital having a nursing home contract with the department shall send immediate written notification of the date of discharge or death of a client to the community services office (CSO).

(2) Discharge and readmission notification is necessary for all medical assistance clients admitted as hospital inpatients.

(3) The provider shall also notify the CSO of social absences exceeding twenty-four hours. Social absences over thirty-six hours require CSO approval of the resident care plan.

(4) The department will not reimburse providers for the reservation of a bed for a single social absence exceeding seven days, unless written permission is received by the provider from the CSO. The department will reimburse providers for absences not to exceed a total per calendar year of eighteen days.

[Statutory Authority: RCW 74.42.620. 82-18-064 (Order 1871), § 388-88-115, filed 9/1/82; Order 1237, § 388-88-115, filed 8/31/77; Order 1168, § 388-88-115, filed 11/3/76; Order 879, § 388-88-115, filed 11/29/73; Order 631, § 388-88-115, filed 11/24/71; Order 342, § 388-88-115, filed 3/20/69; Order 264 (part), § 388-88-115, filed 11/24/67.]

**WAC 388-88-119 Provider report of a disturbance.** (1) The provider will report to the local law enforcement agency any person including a client or next of kin, guardian or responsible party threatening bodily harm or

causing a disturbance of such magnitude any individual's welfare and safety is threatened.

(2) Any event that requires or may require the evacuation to another address of all or part of the nursing home's residents shall be reported immediately to the licensing agency of the department.

[Statutory Authority: RCW 74.42.620. 82-18-064 (Order 1871), § 388-88-119, filed 9/1/82.]

## Chapter 388-90 WAC

### SKILLED NURSING HOME CARE IN STATE SCHOOLS FOR RETARDED PERSONS

#### WAC

388-90-010 Skilled nursing facility care in state school for retarded persons—Minimum requirements for licensure or approval of institution.

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

388-90-005 Skilled nursing facility care in state school for retarded persons. [Order 1097, § 388-90-005, filed 2/13/76; Order 918, § 388-90-005, filed 3/14/74; Order 826, § 388-90-005, filed 7/26/73; Order 668, § 388-90-005, filed 3/23/72; Order 556, § 388-90-005, filed 4/1/71; Order 486, § 388-90-005, filed 10/13/70.] Repealed by 78-10-077 (Order 1346), filed 9/27/78. Statutory Authority: RCW 74.08.090.

**WAC 388-90-010 Skilled nursing facility care in state school for retarded persons—Minimum requirements for licensure or approval of institution.** The institution, or any part thereof, shall meet all applicable requirements for licensure or formal approval as a skilled nursing facility.

[Order 930, § 388-90-010, filed 4/25/74; Order 486, § 388-90-010, filed 10/13/70.]

## Chapter 388-91 WAC

### MEDICAL CARE--DRUGS

#### WAC

388-91-010 Drugs—Persons eligible.  
 388-91-013 Drugs—Physician's 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.
- 388-92-040 Availability of resources.
- 388-92-043 Transfer of resources without adequate consideration.
- 388-92-045 Excluded resources.
- 388-92-050 Limitation of resources.

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

- 388-92-010 Description of program. [Order 996, § 388-92-010, filed 12/31/74; Order 898, § 388-92-010, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-92-020 Application for medical care. [Statutory Authority: RCW 74.08.090. 80-02-050 (Order 1476), § 388-92-020, filed 1/16/80; Order 1111, § 388-92-020, filed 4/15/76; Order 898, § 388-92-020, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-92-035 Monthly personal needs allowance--Person in institution. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-92-035, filed 9/9/80; 80-02-062 (Order 1478), § 388-92-035, filed 1/18/80; 78-10-077 (Order 1346), § 388-92-035, filed 9/27/78; Order 898, § 388-92-035, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-92-055 Allocation of income and resources. [Statutory Authority: RCW 74.08.090. 80-02-061 (Order 1479), § 388-92-055, filed 1/18/80; Order 1227, § 388-92-055, filed 8/8/77; Order 996, § 388-92-055, filed 12/31/74; Order 960, § 388-92-055, filed 8/13/74; Order 898, § 388-92-055, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-92-060 Authorization. [Statutory Authority: RCW 74.08.090. 78-10-077 (Order 1346), § 388-92-060, filed 9/27/78; Order 1111, § 388-92-060, filed 4/15/76; Order 898, § 388-92-060, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-92-065 Termination of SSI beneficiary. [Order 898, § 388-92-065, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-92-070 Person converted into Title XVI. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-92-070, filed 1/13/78; Order 1196, § 388-92-070, filed 3/3/77; Order 996, § 388-92-070, filed 12/31/74; Order 960, § 388-92-070, filed 8/13/74; Order 898, § 388-92-070, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

**WAC 388-92-005 Definitions.** The definitions in this section apply only to SSI related applicants.

(1) **Beneficiary** - A person who receives a cash benefit under Title XVI and/or state supplement.

(2) **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, and are subject to the authority of federal statutes and regulations codified at 42 U.S.C. Sec. 1382c and 20 C.F.R. Parts 404 and 416, as amended, as well as controlling federal court decisions, which define the OASDI and SSI disability standard and determination process.

(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. 86-03-045 (Order 2326), § 388-92-015, filed 1/15/86; 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 388-92-040 Availability of resources.** In establishing eligibility for medical assistance, only those resources actually available or "in hand," or expected to be "in hand," within a three-month period shall be considered. The resources must not exceed the specified standard to be eligible for medical care.

[Statutory Authority: RCW 74.08.090, 81-16-032 (Order 1684), § 388-92-040, filed 7/29/81; 81-10-014 (Order 1646), § 388-92-040, filed 4/27/81; Order 1233, § 388-92-040, filed 8/31/77; Order 930, § 388-92-040, filed 4/25/74; Order 898, § 388-92-040, filed 1/25/74.]

**WAC 388-92-043 Transfer of resources without adequate consideration.** (1) This section is to implement Second Substitute House Bill No. 557 effective December 1, 1981.

(2) An individual is ineligible for Title XVI categorical medical assistance or the medically needy component of the limited casualty program for a period determined under this section if the person knowingly and wilfully assigns or transfers nonexempt resources at less than fair market value after December 1, 1981, for the purpose of qualifying or continuing to qualify for such medical care within two years preceding the date of application for such care.

(3) Definitions:

(a) Transfer shall mean any act or omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing an interest in property. Transfer of title to a resource occurs by:

- (i) An intentional act or transfer; or
- (ii) Failure to act to preserve title to the resource.

(b) Fair market value means the reasonable value of a resource at the time of transfer or assignment.

(c) Uncompensated value means the fair market value of a resource 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
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 388-93 WAC**  
**MEDICAL CARE FOR GRANDFATHERED**  
**RECIPIENTS**

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388-93-005	Definitions.
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388-93-070	Transfer of resources within two years prior to application.
388-93-075	Continuing certification.
388-93-080	Application following termination of eligibility.

**WAC 388-93-005 Definitions.** A "grandfathered" recipient of Title XIX is an individual who

- (1) Had been determined eligible for nongrant and medical assistance related to old age assistance (OAA), aid to the blind (AB), or disability assistance (DA) as of December 31, 1973, and
- (2) Continues to satisfy the criteria for the related categories as defined in WAC 388-93-020 or 388-93-025, and
- (3) Meets the financial standards as defined in WAC 388-93-040 through 388-93-055, and
- (4) Has a medical need.

[Order 996, § 388-93-005, filed 12/31/74.]

**WAC 388-93-010 Description of program.** The department shall provide medical assistance within the limitations set forth in these rules and regulations to an individual who is a grandfathered recipient as defined in WAC 388-93-005.

[Order 996, § 388-93-010, filed 12/31/74.]

**WAC 388-93-015 Eligibility—General.** (1) There is no requirement of citizenship imposed as a condition of eligibility for benefits under the medical care program.

- (2) Residence – see WAC 388-83-025.
- (3) Medical need – The grandfathered recipient must have a medical need to remain eligible for medical assistance under Title XIX of the social security act. For example, disability per se does not constitute a medical need; treatment of disability does.

(4) To continue to be eligible the grandfathered recipient shall be

- (a) Age 65 or older, or
- (b) Disabled as defined in WAC 388-93-025, or

(c) Blind as defined in WAC 388-93-020 and not publicly soliciting alms by wearing, carrying or exhibiting signs denoting blindness, carrying receptacles for the reception of alms or doing the same by proxy or by begging.

(i) It shall be assumed that a blind person is not soliciting alms unless there is evidence to the contrary.

[Statutory Authority: RCW 74.08.090, 83-10-077 (Order 1958), § 388-93-015, filed 5/4/83; Order 996, § 388-93-015, filed 12/31/74.]

**WAC 388-93-020 Eligibility—Blindness defined.** Blindness is defined in terms of ophthalmic measurements as

- (1) Central visual acuity of 20/200 or less in the better eye with the best possible corrective glasses, or
- (2) Contraction of the peripheral field of vision to within twenty degrees of the fixation point in all quadrants as determined by standard perimetric testing, or
- (3) Muscle function, measured in all parts of the motor field and charted upon 20 rectangles, 4 x 5 degrees in size, equal to 18/20 binocular or monocular.

[Order 996, § 388-93-020, filed 12/31/74.]

**WAC 388-93-025 Eligibility—Permanently and totally disabled defined.** (1) In general, "permanently and totally disabled" means that the individual has some permanent physical or mental impairment, disease or loss that substantially precludes him from engaging in a useful occupation within his competence, such as holding a substantially gainful job or homemaking. The impairment may be physical or mental, organic or functional, and of such degree as to interfere with the individual's faculties, such as senses, reasoning, mobility. It may exist from birth, be acquired during the lifetime of the individual, or result from accident. It may be obvious, such as loss of a limb, or it may be such that it can be revealed only by medical examination. It may exist singly or in combinations.

(2) The term "permanently disabled" refers to the existence of a physiological, anatomical, emotional and/or mental impairment verified by medical findings, which is of major importance, and is a condition not likely to improve, but will continue throughout the lifetime of the individual. Any condition which is considered by the medical reviewer as not likely to respond to any known therapeutic procedure shall be deemed to be a permanent impairment. Furthermore, any condition which is considered as likely to remain static or to become worse unless certain therapeutic measures are carried out shall be deemed to be permanent so long as treatment is unavailable, inadvisable, or the individual refuses treatment and his decision is reasonable – see WAC 388-93-030.

(a) Decision that an impairment is permanent can be made even though recovery from the impairment is possible. The discovery of new drugs or other advances in medical treatment is always a potential which may change a permanent "situation"; pending the actual physical improvement, the classification is proper. Therefore, the term "permanent" need not be everlasting



or unchangeable, but is used in the sense of continuing indefinitely as distinct from temporary or transient.

(b) A physician's medical report must be used to establish the existence of an impairment and its permanency.

(3) The term "totally disabled" refers to an individual's ability to perform those activities necessary to carry out specified responsibilities such as those necessary to employment or homemaking. Totality involves considerations in addition to those verified through the medical findings such as age, training, skills and work experience, and the functioning of the individual in his particular situation in light of his impairment. Such social data will describe the individual's education and work history, the activities required of him in his home or in his job, living conditions, interests, his capacity and limitations, and the extent to which he has adjusted to his impairment.

(a) Job training may enable a permanently and totally disabled person to acquire a new skill in spite of his impairment. However, during a reasonable period of training and until he acquires job competence, he continues to be totally disabled.

(b) The social summary must show how the person reacts in social situations in order to illustrate that his disability substantially precludes him from engaging in employment or homemaking in the foreseeable future. The social worker carries the major responsibility for providing the state office review team with the recorded objective social information bearing on the totality factor.

(4) The term "substantially precludes" relates to the extent to which an individual's permanent impairment has left him unable to engage in those activities necessary to carry on specified responsibilities such as employment and homemaking. If an individual is able to perform such activities well enough and with sufficient regularity to receive substantial payment for his effort or to carry on homemaking responsibilities on a continuing basis, he is not considered as precluded from engaging in "useful occupations" and cannot be found to be permanently and totally disabled.

(5) The term "useful occupations" means productive activities which add to the economic wealth, or produce goods or services to which the public attaches a money value. However, the person whose impairment is so severe that it results in his being unable to leave his bed, leave his home or maintain body hygiene without help of another person, and for whom the assumption would commonly be made that he could not engage in any useful occupation, but in fact, through supreme effort he does some work shall have his ability evaluated in light of

(a) The extent to which sympathy or compassion enters into the opportunity to engage in remunerative work. In other words, is the individual able to do something because family, friends, or neighbors help more than is usual — for example, running errands, bringing him materials, "engineering" the job, helping devise and create special tools, creating a market based more on sympathy than intrinsic value received, selling through

church or other organization without charging the usual commission, etc., and

(b) The extent to which the energy which must be discharged by the person is far beyond that which is ordinarily required for that activity. For example, does it take him six or seven hours to do what most workers could do in an hour?

(c) If through careful consideration of such facts, in addition to the medical and social reports, it can be reasonably concluded that this individual is doing more than can ordinarily be expected from individuals with the impairments of similar severity, but his activity is not substantially gainful, a finding of permanent and total disability may be reached.

(6) The term "homemaking" involves the ability to carry the home management and decision-making responsibilities and provide essential services within the home for at least one person in addition to oneself. This may be either a man or a woman. If homemaking is such that children are neglected or the other person receives practically no benefit from her efforts, these facts should be clearly shown in the social summary. If she must have the help of other persons to complete the essential household tasks, it may be shown that she is not actually able to perform as a homemaker. The following activities are important to successful performance of the occupation of homemaking — shopping for food and supplies; planning and preparing meals; washing dishes; cleaning house; making beds; washing and ironing clothes and, if the care of young children is within the homemaking responsibility — lifting and carrying infants; bathing and dressing young children; training and supervising children; accompanying children to community activities and to sources of medical care.

A finding that a person is unable to perform the occupation of homemaking would require that the individual is unable to perform a significant combination or grouping of these activities because of his permanent impairment. When homemaking is the responsibility of the applicant, determination shall be made as to whether a permanent impairment prevents the applicant from totally meeting such responsibility.

(7) Special emotional problems

(a) Alcoholism. For alcoholism to be considered permanently and totally disabling, since there is such variation in the severity of alcoholism, at least one of the following criteria are required for approval of permanent and total disability:

(i) Evidence that a pathological or demonstrable organic damage has resulted from chronic alcoholism, such as neuritis or cirrhosis of the liver;

(ii) Evidence that the alcoholism has reached the addiction state as shown by marked ethical deterioration, the obsessive character of the drinking, the approaching loss of alcohol tolerance, prolonged bouts, and a breakdown of the rationalization pattern;

(iii) A history of several years of excessive drinking to the extent that it has adversely affected his interpersonal relationships and his social and economic functioning — loss of employment and inability to sustain employment because of excessive drinking.

(b) Personality inadequacy. Even though the medical report does not show a physical ailment which of itself is permanently disabling, a person may be found to be permanently and totally disabled if the medical or psychiatric report together with the social report supplemented with a psychological report, if indicated, shows an extended history of a combination of personality problems, character disorders or social inadequacies including unusual behavior, which prevents the person from making the adjustment required for an employable person or a homemaker.

(i) This would include the person whose responses to his environment are habitually inadequate and who seems to have limited or no voluntary control over his reactions. The symptoms of this emotionally unstable personality usually are demonstrated in antisocial or unconventional behavior of one kind or another, for example, drug addiction or alcoholism. The person does not get along with other people and may break many of society's rules. Most of these persons have had one difficulty after another since childhood with the typical lack of awareness and lack of remorse that is associated with this kind of behavior. The repetitive nature of their problems coupled with the lack of motivation for change produces an individual whose pattern provides a serious permanent impairment that can be totally disabling. Examples of this kind of personality inadequacy might be

(A) a patient returning from a mental hospital who is no longer psychotic but whose behavior would be unacceptable to a prospective employer or to his family;

(B) The person who has never been able to hold a job due to a pattern of emotional instability, or other unusual behavior which shows that the individual is unable, for an extended period, to substantially engage in any gainful occupation or homemaking;

(C) Drug addiction over an extended period of time.

(ii) In all cases of personality inadequacy, the reports specified in subsection (7)(b) are required.

[Order 996, § 388-93-025, filed 12/31/74.]

**WAC 388-93-030 Refusal of disabled recipient to accept available and recommended medical treatment--Effect on eligibility.** (1) A disabled recipient who refuses without good cause to accept available medical treatment which can reasonably be expected to render him able to work or do homemaking shall become ineligible.

(2) "Available medical treatment" shall mean and include medical, surgical, or psychiatric therapy, or any combination thereof.

(3) "Reasonably be expected to render him able to work or do homemaking" shall mean that, in the opinion of the state office review team, the recommended medical, surgical, or psychiatric therapy or any combination thereof, is of such a nature and prognosis that, in the specific instance of the individual involved, medical experience indicates that the recommended treatment will restore or substantially improve the individual's ability to work for pay in a regular and predictable manner or to engage in homemaking.

(4) For the purposes of this section, a recipient has good cause to refuse recommended medical treatment

when, according to the best objective judgment of the state office review team, such refusal is based upon one or more of the following conditions:

(a) The individual is genuinely fearful of undergoing recommended treatment. Such fear may appear to be unrealistic, or entirely emotional in origin, or irrational; however, fear exists in such a degree that treatment would be adversely affected and the doctor may therefore be dubious about undertaking to treat the individual, or

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

(c) Because of his definitely stated religious scruples, the individual will not accept recommended medical treatment.

(5) The controlling principle in determining whether refusal was for or without good cause rests with the state office review team which will be guided by whether a reasonable, prudent man under similar circumstances would accept the recommended treatment. The determination will be made only after considering all social and medical evidence, including that furnished by the individual himself, who will be provided with an opportunity to set forth in writing his objective reasons for declining recommended treatment. A determination that a refusal to accept treatment is without good cause is a decision which the recipient may appeal according to chapter 388-08 WAC.

[Order 996, § 388-93-030, filed 12/31/74.]

**WAC 388-93-035 Refusal of disabled recipient to accept available and recommended medical treatment--Review for disability or blindness.** (1) The grandfathered recipient's blindness or permanent and total disability shall be reviewed when a significant change has occurred.

(2) If a change in blindness has occurred, an eye examination shall be secured from an ophthalmologist or optometrist and evaluated by the department's ophthalmological consultant. The ophthalmological consultant shall determine and certify whether legal blindness continues to exist.

(3) If a change in disability has occurred, a medical examination shall be secured. The medical reports shall be evaluated by the office of personal health services to determine whether permanent and total disability continues to exist.

[Statutory Authority: RCW 74.08.090. 83-10-077 (Order 1958), § 388-93-035, filed 5/4/83; Order 996, § 388-93-035, filed 12/31/74.]

**WAC 388-93-040 Computation of available income.** (1) Income and net income shall be as defined in WAC 388-22-030. Total income of a beneficiary of supplementary security income is not considered an available resource except for institutionalized recipients.

(2) To arrive at available income, the following items shall be deducted from net income:

(a) Support payments being paid by the recipient under court order;

(b) Special nonmedical needs, such as payment to a wage earner's plan (specified by the court in a bankruptcy proceeding), or previously contracted major household repairs if failure to make such payments would result in garnishment of wages or loss of employment;

(c) Tax rebates or special payments exempted by federal regulations and publicized by numbered memoranda from the state office.

(3) The exempt earned income shall be:

(a) For a former recipient of old age assistance or of disability assistance - the first \$20 plus one-half of the next \$60;

(b) For a former recipient of aid to the blind - the first \$85 plus one-half of the amount over \$85.

(4) Personal and nonpersonal work expense shall be deducted from earned income as follows:

(a) Mandatory deductions as required by law or as a condition of employment;

(b) Necessary cost of public transportation or eight cents a mile for private car to and from place of employment;

(c) Expenses of employment which are necessary to that employment such as tools, materials, union dues;

(d) Additional clothing costs: for an individual doing clerical work, \$5.70; for an individual doing manual work, \$3.60; for persons enrolled in a remedial education or vocational training course, the actual cost of uniforms and/or special clothing;

(e) The cost of child care necessary to employment if not provided without cost or as departmental service. The actual expense shall be deducted but not to exceed standard in WAC 388-16-215.

[Statutory Authority: RCW 74.08.090, 78-02-024 (Order 1265), § 388-93-040, filed 1/13/78; Order 1067, § 388-93-040, filed 11/17/75; Order 996, § 388-93-040, filed 12/31/74.]

**WAC 388-93-045 Monthly maintenance standard-- Individual living in own home.** (1) The following monthly standards of available income for maintenance in dollar amounts shall apply when determining financial eligibility.

FAMILY SIZE	STANDARD	FAMILY SIZE	STANDARD
1	\$195	10	\$591
2	237	11	635
3	282	12	679
4	327	13	723
5	371	14	768
6	415	15	812
7	459	16	856
8	503	17	900
9	547	18	944

(2) \$44 shall be added for each additional member.

[Order 996, § 388-93-045, filed 12/31/74.]

**WAC 388-93-050 Monthly maintenance standard-- Individual in institution.** (1) The monthly standard for clothing and personal maintenance for an individual in a skilled nursing facility or general hospital shall be \$25.

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(2) The monthly standard for clothing and personal maintenance for an individual in an intermediate care facility shall be \$27.30.

[Order 996, § 388-93-050, filed 12/31/74.]

**WAC 388-93-055 Allocation of available income and nonexempt resources.** (1) The individual's available income determined according to WAC 388-93-040 and nonexempt resources determined according to WAC 388-93-060 and 388-93-065 shall be allocated for the purposes and in the order specified in this section.

(2) Maintenance needs of the individual living in his own home, or of legal dependents living in the family home if the individual is in an institution;

(a) The maintenance standards in WAC 388-93-045 shall apply unless the legal dependents are applying for or receive public assistance when the appropriate grant standards shall apply.

(3) Maintenance needs according to WAC 388-93-050 for an individual in an institution;

(4) Supplementary medical insurance premiums for an individual not in a nursing home who is eligible for medicare during the month of authorization and the month following if not withheld from the RDSI or RR benefit (see WAC 388-81-060);

(5) Health and accident insurance premiums for policies continued in force from time of application;

(6) Costs not covered under this program for medical or remedial care as determined necessary by eligible providers according to WAC 388-87-005 (2)(a) and (h) initiated during a period of certification. (See WAC 388-91-016 (1)(a).)

(7) Participation in cost of care provided under this program except as provided in subsection (8); however, participation may not exceed:

(a) The excess regular income multiplied by six or the anticipated excess income that will be available within a six-month period, whichever is greater,

(b) The resources in excess of those listed in WAC 388-28-430 (2)(a) - (see WAC 388-93-060),

(c) Additional cash resources that come into possession of the individual during a period of certification.

(8) The twenty percent increase in social security benefits shall be considered exempt income when determining eligibility and participation for persons who in August 1972 received OAA, AFDC, AB or DA and also received RDSI benefits and who became ineligible for OAA, AFDC, AB or DA solely because of the twenty percent increase in social security benefits under Public Law 92-366.

[Order 1061, § 388-93-055, filed 10/8/75; Order 996, § 388-93-055, filed 12/31/74.]

**WAC 388-93-060 Exempt resources.** In determining the eligibility of the grandfathered recipient the rules for exempt resources in WAC 388-28-420, 388-28-430, and 388-28-580 shall apply. When separate property is a consideration, see WAC 388-28-365 and 388-28-370.

[Statutory Authority: RCW 74.08.090, 83-10-077 (Order 1958), § 388-93-060, filed 5/4/83; Order 996, § 388-93-060, filed 12/31/74.]

**WAC 388-93-065 Nonexempt resources.** (1) All resources not specifically exempted in WAC 388-93-060 shall be considered available for medical and nonmedical needs following priorities set forth in WAC 388-93-045 through 388-93-055. Value shall be assigned resources according to WAC 388-28-450 and 388-28-455.

(2) The possession of a nonexempt resource affects eligibility for medical care. Except for nonexempt real property, the value assigned to such resources shall be the "fair market value." The "fair market value" of the resource is considered available toward the cost of medical care. Such amount is considered at the time of each review for as long as the resource is possessed by the applicant. See WAC 388-85-020.

(3) In assigning value to nonexempt real property as described in WAC 388-28-055 for sequence followed shall be:

(a) First consideration shall be given to the sale of nonexempt real property based on the "quick sale value."

(b) If sale is not possible, rental or lease must be considered with the income derived from such rental or lease being considered available to meet the cost of medical care.

(c) If the property cannot be sold, rented, or leased and if the applicant has used reasonable diligence in seeking a purchaser, renter, or leasee, then no resource value for this property shall be considered to exist for the purpose of determining eligibility. The property shall remain on the market for as long as the applicant is certified for medical care.

(4) An application for medical assistance from a person who refuses to dispose of his property or refuses to attempt to dispose of his property as provided in subsection (2)(a), (b) and (c) shall be denied.

[Order 996, § 388-93-065, filed 12/31/74.]

**WAC 388-93-070 Transfer of resources within two years prior to application.** (1) An applicant who transfers any resource within two years immediately prior to the date of application (or during the application period) without having received adequate consideration for such property shall be deemed to have a nonexempt resource available to meet his medical needs.

(2) The amount considered available to meet medical need shall be the difference between the reasonable value of the consideration received for the transferred property and the reasonable value of the property transferred. In determining this amount the rules in WAC 388-28-461 and 388-28-462 shall be considered.

(3) The applicant is ineligible if the amount considered available exceeds medical need according to WAC 388-84-020. If eligible with participation, see WAC 388-83-045.

[Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-93-070, filed 5/16/79; Order 996, § 388-93-070, filed 12/31/74.]

**WAC 388-93-075 Continuing certification.** (1) A grandfathered recipient who continues to meet requirements of WAC 388-93-015, 388-93-045, 388-93-060,

388-93-065 and 388-93-070 may be recertified for medical assistance.

(2) A grandfathered recipient who does not continue to meet requirements in subsection (1) shall be terminated. See WAC 388-93-080.

[Order 996, § 388-93-075, filed 12/31/74.]

**WAC 388-93-080 Application following termination of eligibility.** The eligibility of an individual applying for medical care after termination of his eligibility as a grandfathered recipient shall be determined according to chapter 388-92 WAC.

[Statutory Authority: RCW 74.08.090. 83-10-077 (Order 1958), § 388-93-080, filed 5/4/83; Order 996, § 388-93-080, filed 12/31/74.]

**Chapter 388-95 WAC  
INSTITUTIONAL--MEDICAL ASSISTANCE--  
ELIGIBILITY**

WAC	
388-95-300	Recipients in medical institutions eligible under Title XIX.
388-95-320	Eligibility determination--Institutional.
388-95-335	Ownership of income.
388-95-340	Computation of available income and resources.
388-95-360	Allocation of income--Institutionalized recipient.
388-95-380	Excluded resources.
388-95-390	Limitation of resources.
388-95-400	Medically needy--Eligibility determination--Institutional.

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

388-95-005	Definitions. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-005, filed 8/22/78; Order 1233, § 388-95-005, filed 8/31/77; Order 1044, § 388-95-005, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
388-95-010	Eligibility for aged person. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-010, filed 8/22/78; Order 1044, § 388-95-010, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
388-95-025	Notification and application process. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-025, filed 8/22/78; Order 1044, § 388-95-025, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
388-95-030	Certification of eligibility. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-030, filed 8/22/78; Order 1044, § 388-95-030, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
388-95-035	Effective date of authorization. [Order 1044, § 388-95-035, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
388-95-040	Duration of certification. [Order 1044, § 388-95-040, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
388-95-045	Medical consultant approval for hospitalization or medical care--When required. [Order 1044, § 388-

- 95-045, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-050 Time-limited visit. [Order 1044, § 388-95-050, filed 8/14/75.] Repealed by 78-09-052 (Order 1328), filed 8/22/78. Statutory Authority: RCW 74.08.090.
- 388-95-055 Department responsibilities for patient/recipient entering psychiatric facility. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-055, filed 8/22/78; Order 1044, § 388-95-055, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-060 Services to patient/recipient in psychiatric facility. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-060, filed 8/22/78; Order 1044, § 388-95-060, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-065 Coordination of services for patient/recipient. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-065, filed 8/22/78; Order 1044, § 388-95-065, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-070 Department responsibilities—Patient/recipient scheduled for release. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-070, filed 8/22/78; Order 1044, § 388-95-070, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-075 ESSO responsibility for social services. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-075, filed 8/22/78; Order 1044, § 388-95-075, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-080 Payment for care. [Order 1044, § 388-95-080, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-210 Eligibility for person under age 21. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-210, filed 8/22/78; Order 1044, § 388-95-210, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-215 Scope of care. [Order 1044, § 388-95-215, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-225 Notification process. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-225, filed 8/22/78; Order 1044, § 388-95-225, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-235 Effective date of Title XIX coverage. [Order 1044, § 388-95-235, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-250 Therapeutic visit. [Order 1044, § 388-95-250, filed 8/14/75.] Repealed by 78-09-052 (Order 1328), filed 8/22/78. Statutory Authority: RCW 74.08.090.
- 388-95-255 Department responsibility—Admission. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-255, filed 8/22/78; Order 1044, § 388-95-255, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-260 Services in facility. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-260, filed 8/22/78; Order 1044, § 388-95-260, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-265 Coordination of services. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-265, filed 8/22/78; Order 1044, § 388-95-265, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-270 Department responsibilities—Release. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-270, filed 8/22/78; Order 1044, § 388-95-270, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-275 Supportive social service by ESSO. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-275, filed 8/22/78; Order 1044, § 388-95-275, filed 8/14/75.] Repealed by 82-01-042 (Order 1734), filed 12/16/81. Statutory Authority: RCW 74.08.090.
- 388-95-280 Conditions for payment. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-280, filed 8/22/78; Order 1044, § 388-95-280, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.

**WAC 388-95-300 Recipients in medical institutions eligible under Title XIX.** Medical assistance is available to an otherwise eligible individual who is in a Title XIX certified medical facility defined as:

- (1) A general hospital;
- (2) A skilled nursing home;
- (3) An intermediate care facility;
- (4) An intermediate care facility for mentally retarded;
- (5) In state mental institutions, only eligible individuals age sixty-five and over and under age twenty-one;
- (6) An approved inpatient psychiatric facility for eligible individuals under age twenty-one.

[Statutory Authority: RCW 74.08.090. 83-12-059 (Order 1964), § 388-95-300, filed 6/1/83. Formerly WAC 388-82-125.]

**WAC 388-95-320 Eligibility determination—Institutional.** (1) Individuals are considered institutionalized if they reside in a medical facility at least a full calendar month.

(a) Title XVI related individuals in medical facilities shall have their eligibility determined by comparing their gross income to three hundred percent of the SSI federal benefit amount payable under section 1611 (b)(1) of the Social Security Act to an individual in his/her own home who has no income or resources (SSI cap).

(b) If gross income is greater than three hundred percent of SSI cap, eligibility must be determined under the limited casualty program—medically needy in chapter 388-99 WAC.

(c) Allocation of recipient income is defined in WAC 388-95-360.

(d) For consideration of resources see WAC 388-95-380 and 388-95-390. The home becomes a resource when it is determined no longer the principal place of residence.

(2) Individuals who reside in a medical facility less than a full calendar month shall have their eligibility determined as for a noninstitutionalized person.

(3) Individuals under age eighteen who reside in an approved inpatient psychiatric facility shall have their eligibility determined as follows:

(a) If the absence from the home is temporary, the income and resources of the parents are considered to be available whether or not actually contributed. Absence is

considered to be temporary if the individual is placed in an acute care facility and return to the home is expected within ninety days.

(b) If the absence from the home is other than temporary, the income and resources of the parents are not considered available unless actually contributed. Absence is considered other than temporary if the individual is:

(i) Placed in an acute care facility and return to the home is not expected within ninety days, i.e., following discharge, placement will be other than in the home; or

(ii) Placed in an approved inpatient psychiatric long-term care facility.

(4) Individuals age eighteen through age twenty, who reside in an approved inpatient psychiatric facility, the income and resources of the parents are not considered available unless actually contributed.

[Statutory Authority: RCW 74.08.090. 86-08-005 (Order 2351), § 388-95-320, filed 3/20/86; 83-12-059 (Order 1964), § 388-95-320, filed 6/1/83. Formerly WAC 388-83-135.]

**WAC 388-95-335 Ownership of income.** (1) Community property law is used 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, is divided by two with one-half of the total assigned to each individual, as their income.

(4) An agreement between spouses transferring or assigning rights to future income from one spouse to the other is invalid in determining eligibility for medical assistance or the limited casualty program for the medically needy.

(5) Income produced by transferred or assigned resources is recognized as the separate income of the transferee.

[Statutory Authority: RCW 74.08.090. 86-18-005 (Order 2411), § 388-95-335, filed 8/21/86; 85-09-024 (Order 2224), § 388-95-335, filed 4/10/85.]

**WAC 388-95-340 Computation of available income and resources.** (1) Financial responsibility of spouses.

(a) 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 (b) of this section.

(b) 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.

(c) When both spouses are eligible and institutionalized income and resources are considered separately even if they share the same room.

(d) 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.

(e) If the community income received in the name of the nonapplicant spouse exceeds the community income received in the name of the applicant spouse, the applicant's interest in that excess is considered unavailable to the applicant.

(2) Relative responsibility shall be limited to spouse for spouse and parent for child.

(3) For children age eighteen to twenty-one the parents' income is not deemed to the child. Count only the income that is actually contributed to the child.

(4) 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) Supplemental security income and 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) One-third of any payment for child support received from an absent parent;

(f) The first twenty dollars per month of earned or unearned income. There is no exclusion on income which is paid on the basis of need and is totally or partially funded by the federal government or by a private agency;

(g) Tax exempt payments received by Alaska natives under the Alaska Native Claims Settlement Act;

(h) Tax rebates or special payments excluded by other statutes;

(i) Compensation provided to volunteers in ACTION programs established by Public Law 93-113, the Domestic Volunteer Service Act of 1973;

(j) Veteran's benefits, only the following portions are excluded.

(i) The veteran's aid and attendance/house bound allowance.

(ii) The portion attributable to the dependent.

(k) A fee charged by a guardian to reimburse himself or herself for services provided.

(l) Income received by an ineligible or nonapplying spouse from a governmental agency for services provided to an eligible recipient (e.g. chore services).

(5) Earned income exclusions for SSI related individuals shall be the first sixty-five dollars per month of earned income not excluded according to subsection (4) of this section, plus one-half of the remainder.

(6) 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, 86-18-005 (Order 2411), § 388-95-340, filed 8/21/86; 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 388-95-360 Allocation of income--Institutionalized recipient.** (1) All institutionalized recipients will retain a specified personal needs allowance.

(2) The AFDC related individual in a medical facility is eligible to receive an amount as a cash assistance payment sufficient to bring income up to the personal needs allowance.

(3) SSI related recipients may retain the current personal needs allowance plus wages received for work approved by the department as part of a training or rehabilitative program designed to prepare the individual for less restrictive placement. The total amount of wages received plus the personal needs allowance may not exceed the one person medically needy income level. There are no deductions for expenses of employment. When the total amount of wages received plus the initial personal needs allowance exceeds the one person medically needy income level, the excess wages are applied to the cost of care.

(4) In addition to the allocations in subsections (1) and (3) of this section, SSI related individuals residing in a medical facility throughout a calendar month are entitled to the following allocations of income as applicable:

(a) Maintenance needs of spouse not to exceed the one person medically needy income level;

(b) Maintenance needs of family adjusted for number of family members living at home, but not to exceed highest payment standard for a family of same size under AFDC;

(c) Amounts for incurred medical expenses not subject to third-party payment including but not limited to:

(i) Health insurance premiums, co-insurance or deductible charges;

(ii) Necessary medical care recognized under state law but not covered under Medicaid;

(d) For a single person, maintenance of the home where the individual has been certified by a physician to need institutional care for no more than six consecutive months. See WAC 388-95-380 (1)(a)(iv);

(i) Income thus exempted must be used to retain the independent living situation of an individual with no dependents through payment of such requirements as rent or mortgages, real estate taxes, insurance, gas, electricity, oil, water or sewer necessary to maintain the home. Also see chapter 388-28 WAC;

(ii) Up to one hundred eighty dollars per month may be exempted from the individual's actual income based on the verified actual cost to retain the home during six consecutive months;

(iii) The six-month period begins on the first of the month following date of admission for Medicaid eligible recipients or the date of eligibility for individuals changing from private to Medicaid, and ceases when the patient is discharged to an independent living arrangement or at the end of six months if the recipient has not been discharged;

(iv) CSO social service staff shall document initial need for the income exemption and review the individual's circumstances after ninety days. Also see chapter 388-28 WAC.

(5) Income remaining in subsections (1), (2), (3) or (4) of this section, will be used to compute payment of the participation amount (that income remaining after allocation of income) at the department rate.

[Statutory Authority: RCW 74.08.090, 83-17-093 (Order 2005), § 388-95-360, filed 8/23/83; 83-12-059 (Order 1964), § 388-95-360, filed 6/1/83. Formerly WAC 388-83-140.]

**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.]

**WAC 388-95-400 Medically needy—Eligibility determination—Institutional.** (1) Individuals are considered institutionalized if they reside in a medical facility at least a full calendar month.

(a) SSI/state supplement-related individuals in medical facilities are medically needy if their gross income exceeds three hundred percent of the SSI benefit (SSI cap). AFDC-related individuals in medical facilities are medically needy if countable income exceeds the one-person AFDC grant standard.

(b) Determination of countable income. Countable income of a medically needy applicant residing in a nursing home is determined by deducting the following amounts from gross income:

(i) Amounts that would be deducted in determining either AFDC eligibility or for aged, blind, and disabled persons, amounts that would be deducted in determining eligibility for the state supplementary payment.

(ii) Previously incurred medical expenses that are not subject to third party payment and which are the current liability of the applicant.

(c) Medically needy nursing home residents will be determined eligible if their countable income is less than department's contracted rate plus verifiable recurring medical expenses. These individuals will participate in the cost of their nursing home care. Once it is established that an applicant meets the medically needy financial eligibility, see WAC 388-95-360 for post-eligibility allocation of income.

(d) Applicants for the medically needy program with countable income above the private nursing home rate plus verifiable recurring medical expenses are ineligible.

(e) Individuals with countable incomes below the private nursing home rate plus recurring medical expenses, but above the department's contracted rate plus medical expenses, will have eligibility determined as follows:

(i) Such applicants will be certified eligible for nursing home care. See WAC 388-95-360 for post-eligibility allocation of income.

(ii) Eligibility for nonnursing home medical care will require spending-down of all income remaining after allocating income, per (i) above. Coupons will be issued only when spend-down has been met.

(iii) Certification for nursing home care for such individuals shall be on a three-month basis. Spend-down of nonnursing home medical expenses will be on a three-month basis.

(f) Absence of not more than fourteen consecutive days from an institutional living arrangement would not interrupt an individual's institutional status.

(i) A transfer between institutions does not change institutional status.

(ii) A transfer from a hospital to a nursing home and discharge within the same calendar month is not continuous institutional status.

(2) Use other SSI financial criteria for consideration of resources as defined in WAC 388-95-380 and 388-95-390.

(3) Individuals who reside in a medical facility less than a full calendar month shall have their eligibility determined as for a noninstitutionalized person for that month.

[Statutory Authority: RCW 74.08.090. 83-12-059 (Order 1964), § 388-95-400, filed 6/1/83. Formerly WAC 388-99-045.]

### Chapter 388-96 WAC NURSING HOME ACCOUNTING AND REIMBURSEMENT SYSTEM

#### WAC

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<b>DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER</b>		
388-96-015	Phase-in of other definitions. [Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-015, filed 2/25/81.] Repealed by 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.	
388-96-100	Standards for funding patient care services in skilled nursing/intermediate care facilities. [Order 1168, § 388-96-100, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.	
388-96-103	Skilled nursing care patients. [Order 1168, § 388-96-103, filed 11/3/76.] Repealed by Order 1257, filed 12/21/77.	
388-96-106	Minimum licensed personnel requirements for skilled nursing facilities. [Order 1168, § 388-96-106, filed 11/3/76.] Repealed by Order 1257, filed 12/21/77.	
388-96-109	Intermediate care facility patients. [Order 1168, § 388-96-109, filed 11/3/76.] Repealed by Order 1257, filed 12/21/77.	
388-96-112	Minimum licensed personnel requirements for intermediate care facilities. [Order 1168, § 388-96-112, filed 11/3/76.] Repealed by Order 1257, filed 12/21/77.	
388-96-116	Provider classification. [Order 1169, § 388-96-116, filed 11/10/76.] Repealed by Order 1257, filed 12/21/77.	
388-96-118	Exception to dual contract. [Order 1168, § 388-96-118, filed 11/3/76.] Repealed by Order 1257, filed 12/21/77.	
388-96-125	Reporting for an abbreviated period. [Statutory Authority: RCW 74.09.120. 79-04-102 (Order 1387), § 388-96-125, filed 4/4/79; Order 1262, § 388-96-125, filed 12/30/77.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.	
388-96-200	Condition of qualification for participation in the Washington state cost-related reimbursement system. [Order 1168, § 388-96-200, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.	
388-96-201	Desk review. [Order 1262, § 388-96-201, filed 12/30/77.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.	
388-96-203	Initial financial survey report and budgetary report for new providers. [Order 1168, § 388-96-203, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.	
388-96-206	Prospective daily payment. [Order 1168, § 388-96-206, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.	
388-96-209	Flat rate payment system option. [Order 1168, § 388-96-209, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.	
388-96-219	Disclosure of audit narratives and summaries. [Order 1262, § 388-96-219, filed 12/30/77.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.	
388-96-222	Settlement. [Statutory Authority: RCW 74.09.120. 83-05-007 (Order 1944), § 388-96-222, filed 2/4/83; 81-22-080 (Order 1716), § 388-96-222, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-222, filed 2/25/81. Statutory Authority: RCW 74.09.120. 79-12-085 (Order 1461), § 388-96-222, filed 11/30/79; 79-04-059 (Order 1382), § 388-96-222, filed 3/28/79. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-222, filed 6/1/78; Order 1262, § 388-96-222, filed 12/30/77.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.	
388-96-223	Shifting. [Statutory Authority: RCW 74.09.120. 81-15-049 (Order 1669), § 388-96-223, filed 7/15/81;	
		80-15-114 (Order 1561), § 388-96-223, filed 10/22/80; Order 1262, § 388-96-223, filed 12/30/77.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.
		388-96-225 Date settlement becomes final. [Statutory Authority: RCW 74.09.120. 83-05-007 (Order 1944), § 388-96-225, filed 2/4/83; 81-22-080 (Order 1716), § 388-96-225, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-225, filed 2/25/81; Order 1262, § 388-96-225, filed 12/30/77.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.
		388-96-227 Interest on settlements. [Statutory Authority: RCW 74.09.120. 83-05-007 (Order 1944), § 388-96-227, filed 2/4/83; 81-22-080 (Order 1716), § 388-96-227, filed 11/4/81.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.
		388-96-300 Required reports. [Order 1205, § 388-96-300, filed 4/13/77; Order 1114, § 388-96-300, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
		388-96-302 Report dates. [Order 1205, § 388-96-302, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
		388-96-303 Uniform reporting forms. [Order 1169, § 388-96-303, filed 11/10/76; Order 1114, § 388-96-303, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
		388-96-305 Approval required for extensions. [Order 1205, § 388-96-305, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
		388-96-306 Short-period report procedure. [Order 1114, § 388-96-306, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
		388-96-308 Late reports. [Order 1205, § 388-96-308, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
		388-96-309 Incorrect or false report. [Order 1114, § 388-96-309, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
		388-96-311 Forms. [Order 1205, § 388-96-311, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
		388-96-312 Amended annual or semiannual report. [Order 1114, § 388-96-312, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
		388-96-314 Completion of reports. [Order 1205, § 388-96-314, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
		388-96-315 Flat rate option for providers (flat rate system). [Order 1114, § 388-96-315, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
		388-96-317 Certification of reports. [Order 1205, § 388-96-317, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
		388-96-318 Reporting requirements. [Order 1114, § 388-96-318, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
		388-96-320 False reports. [Order 1205, § 388-96-320, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
		388-96-321 Extensions. [Order 1114, § 388-96-321, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
		388-96-323 Amendments. [Order 1205, § 388-96-323, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
		388-96-324 Delinquent semiannual or annual reports. [Order 1114, § 388-96-324, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
		388-96-325 Abbreviated reporting period. [Order 1205, § 388-96-325, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
		388-96-326 Retention of records. [Order 1205, § 388-96-326, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
		388-96-327 Determination of prospective daily payment rate. [Order 1114, § 388-96-327, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
		388-96-330 Rate adjustments and payments. [Order 1114, § 388-96-330, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.

- 388-96-333 Annual report settlement. [Order 1114, § 388-96-333, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-336 Contested annual settlement. [Order 1114, § 388-96-336, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-339 Final settlement date. [Order 1114, § 388-96-339, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-342 Uniform system of accounting and reporting. [Order 1169, § 388-96-342, filed 11/10/76; Order 1114, § 388-96-342, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-345 Uniform statistical reporting. [Order 1114, § 388-96-345, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-348 Method of accounting. [Order 1114, § 388-96-348, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-351 Nursing home reports. [Order 1239, § 388-96-351, filed 8/23/77; Order 1205, § 388-96-351, filed 4/13/77; Order 1114, § 388-96-351, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-354 Final settlement report. [Order 1114, § 388-96-354, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-357 Provider records. [Order 1114, § 388-96-357, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-360 Audits by the department. [Order 1114, § 388-96-360, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-363 Report certification. [Order 1114, § 388-96-363, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-387 Illustration of final settlement form. [Order 1114, § 388-96-387, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-400 The prospective cost-related reimbursement system. [Order 1168, § 388-96-400, filed 11/3/76; Order 1114, § 388-96-400, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-403 Control areas and associated cost centers. [Order 1168, § 388-96-403, filed 11/3/76; Order 1114, § 388-96-403, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-406 Payment of the actual allowable costs by cost center. [Order 1168, § 388-96-406, filed 11/3/76; Order 1114, § 388-96-406, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-409 Discretionary allowance. [Order 1114, § 388-96-409, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-412 Expense allocation procedures. [Order 1114, § 388-96-412, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-415 Expense identification. [Order 1114, § 388-96-415, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-418 Expense recoveries and adjustments. [Order 1114, § 388-96-418, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-421 Allocation of expenses. [Order 1114, § 388-96-421, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-424 Multifacility provider. [Order 1114, § 388-96-424, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-427 Uniform system of accounting. [Order 1114, § 388-96-427, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-430 Separate and distinct SNF and/or ICF. [Order 1114, § 388-96-430, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-433 Combined multifacility. [Order 1114, § 388-96-433, 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-436 Prospective cost reimbursement for combined multifacility. [Order 1114, § 388-96-436, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-439 Payment of the lower of actual costs or prospective per diem rates. [Order 1114, § 388-96-439, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-442 Multifacility flat rate option for providers (flat rate system). [Order 1114, § 388-96-442, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-445 Medical recipient rates. [Order 1114, § 388-96-445, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-448 Medical recipient rates by level of care. [Order 1114, § 388-96-448, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-451 Prospective daily payment rate. [Order 1114, § 388-96-451, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-454 Prospective rate—Inadequate data. [Order 1114, § 388-96-454, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-457 Prospective rate revision. [Order 1114, § 388-96-457, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-458 Prospective rate—Projected (budgeted) cost increases. [Order 1114, § 388-96-458, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-460 Prospective rate—New facility. [Order 1114, § 388-96-460, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-463 Prospective rate—Change in ownership—New provider. [Order 1114, § 388-96-463, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-466 Prospective rate—Change in ownership—Nonarmslength transaction. [Order 1114, § 388-96-466, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-470 Prospective rate—Change in ownership—Armslength transaction. [Order 1114, § 388-96-470, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-473 Final daily settlement rate. [Order 1114, § 388-96-473, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-476 Notification of prospective and final rates. [Order 1114, § 388-96-476, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-479 Adjustments, errors, or omissions. [Order 1114, § 388-96-479, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-500 Provider billing instructions—Nursing home statement. [Order 1114, § 388-96-500, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-510 Billing period. [Order 1114, § 388-96-510, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-520 Suspension of reimbursement formula. [Order 1114, § 388-96-520, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-537 Temporary contract labor. [Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-537, filed 2/25/81.] Repealed by 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.
- 388-96-539 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.
- 388-96-545 Operating leases of equipment. [Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-545, filed 2/25/81.] Repealed by 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.
- 388-96-547 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.
- 388-96-563 Depreciation base of assets previously used in medical care program. [Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-563, filed 2/25/81.] Repealed by 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.
- 388-96-587 Phase-in of other unallowable costs. [Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-587, filed 2/25/81.] Repealed by 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.
- 388-96-600 Reasonable costs. [Order 1114, § 388-96-600, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-602 Substance of recoverable cost transactions. [Order 1114, § 388-96-602, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-604 Costs due to changes imposed by regulatory agencies. [Order 1114, § 388-96-604, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-606 Nonreimbursable services and expenses. [Order 1114, § 388-96-606, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-608 Recovery of expenses. [Order 1114, § 388-96-608, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-610 Physical property. [Order 1114, § 388-96-610, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-612 Depreciation. [Order 1114, § 388-96-612, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-614 Historical cost depreciation for new providers and for depreciable assets purchased subsequent to July 1, 1974. [Order 1114, § 388-96-614, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-616 Election of depreciation method for depreciable assets purchased prior to July 1, 1974, by providers entering cost reimbursement at its inception. [Order 1169, § 388-96-616, filed 11/10/76; Order 1114, § 388-96-616, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-618 Guideline lives and methods of depreciation. [Order 1114, § 388-96-618, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-620 Disposal of depreciable assets. [Order 1114, § 388-96-620, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-622 Gains or losses on disposition of major-minor equipment. [Order 1114, § 388-96-622, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-624 Historical cost trade-ins. [Order 1114, § 388-96-624, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-626 Purchase of facility as an ongoing operations. [Order 1114, § 388-96-626, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-628 Partial change of ownership interest. [Order 1114, § 388-96-628, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-630 Donated assets. [Order 1114, § 388-96-630, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-632 Capitalization vs. expense. [Order 1114, § 388-96-632, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-634 Construction in process. [Order 1114, § 388-96-634, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-636 Amortization expense of leasehold improvements. [Order 1114, § 388-96-636, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-638 Leased facilities and equipment. [Order 1114, § 388-96-638, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-640 Interest expense. [Order 1114, § 388-96-640, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-642 Interest rate. [Order 1114, § 388-96-642, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-644 Recovery of interest income. [Order 1114, § 388-96-644, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-646 Interest expense—Related organization. [Order 1114, § 388-96-646, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-648 Construction interest expense. [Order 1114, § 388-96-648, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-650 In-service educational activities. [Order 1114, § 388-96-650, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-652 Owner-administrator compensation and/or allowances. [Order 1114, § 388-96-652, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-654 Relatives of owner compensation and/or allowances. [Order 1114, § 388-96-654, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-656 Owner-administrator of multiple facilities (groups). [Order 1114, § 388-96-656, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-658 Owner allowances. [Order 1114, § 388-96-658, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-660 Preopening expenses. [Order 1114, § 388-96-660, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-662 Discretionary allowance. [Order 1114, § 388-96-662, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-664 Costs of related organization. [Order 1114, § 388-96-664, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-666 Rentals or leases from related organization. [Order 1114, § 388-96-666, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-668 Service charges from related organization. [Order 1114, § 388-96-668, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-700 Appeals [Order 1114, § 388-96-700, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-701 Reimbursement principles. [Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-701, filed 1/9/78.] Repealed by 81-15-049 (Order 1669), filed 7/15/81. Statutory Authority: RCW 74.09.120.
- 388-96-720 Redistribution pool. [Statutory Authority: RCW 74.09.120. 82-11-065 (Order 1808), § 388-96-720, filed 5/14/82.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. 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.
- 388-96-772 Requests for revision of a prospective rate. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-772, filed 11/4/81; 78-02-013 (Order 1264), § 388-96-772, filed 1/9/78.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.
- 388-96-900 Definitions. [Order 1169, § 388-96-900, filed 11/10/76.] Repealed by Order 1262, filed 12/30/77.

**WAC 388-96-010 Terms.** Unless the context clearly requires otherwise, the following terms shall have the meaning set forth 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 388-96-023 Conditions of participation.** In order to participate in the prospective cost-related reimbursement system, the person or legal organization responsible for operation of a nursing home or multiservice facility shall:

(1) Obtain a state certificate of need approval pursuant to chapter 70.38 RCW where required;

(2) Hold the appropriate current license (e.g., nursing home license, hospital license);

(3) Hold current Title XIX certification to provide SNF and/or ICF services;

(4) Hold a current contract to provide SNF and/or ICF services; and

(5) Comply with all provisions of the contract, chapter 74.46 RCW, and all applicable regulations, including but not limited to the provisions of this chapter and of chapter 388-88 WAC.

[Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-023, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-023, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120, 78-06-080 (Order 1300), § 388-96-023, filed 6/1/78; Order 1262, § 388-96-023, filed 12/30/77.]

**WAC 388-96-026 Projected budget for new contractors.** (1) Each new contractor shall submit a projected budget to the department at least sixty days before its contract will become effective. For purposes of this section, a "new contractor" is one which:

- (a) Operates a new facility;
- (b) Acquires or assumes responsibility for operating an existing facility;
- (c) Enters the cost-related reimbursement system after providing service at the nursing home in the past, but either not under the program or receiving flat or class-rate reimbursement; or
- (d) Obtains a certificate of need approval due to an addition to or renovation of a facility.

(2) The projected budget shall cover the twelve months immediately following the date the contractor will enter the program. It shall be prepared on forms and in accordance with instructions provided by the department and shall include all earnest money, purchase and lease agreements involved in the transaction.

(3) A new contractor shall submit, at least sixty days before the effective date of the contract, a statement disclosing the identity of individuals or organizations who have a beneficial ownership interest in the current operating entity or in the land, building, or equipment of the facility and the identity of individuals or organizations who have a beneficial ownership interest in the purchasing or leasing entity.

[Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-026, filed 9/16/83; Order 1262, § 388-96-026, filed 12/30/77.]

**WAC 388-96-029 Change of ownership.** (1) On the effective date of a change of ownership, as that term is defined in WAC 388-96-010, the department's contract with the old owner shall be terminated. The old owner shall give the department 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 388-96-107 Requests for extensions.** (1) The department may grant two extensions of up to thirty days each upon receipt of a written request at least ten days prior to the due date of the report. Requests must be addressed to the director, bureau of nursing home affairs, and must state the circumstances prohibiting compliance with the report due date.

(2) Extensions will be granted only if the circumstances stated clearly indicate the due date cannot be met and the following conditions are present:

(a) The circumstances were not foreseeable by the provider; and

(b) The circumstances were not avoidable by advance planning.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-107, filed 9/16/83; Order 1262, § 388-96-107, filed 12/30/77.]

**WAC 388-96-108 Failure to submit final reports.**

(1) If a contract is terminated, the old contractor shall submit a final report as required by WAC 388-96-032(1) and 388-96-104(2). Such final reports must be received by the department within one hundred twenty days after the contract is terminated or prior to the expiration of any department-approved extension granted pursuant to WAC 388-96-107. If a final report is not submitted, all payments made to the contractor relating to the period for which a report has not been received shall be returned to the department within thirty days after receiving written demand from the department.

(2) Effective thirty days after written demand for payment is received by the contractor, interest will begin

to accrue payable to the department on any unpaid balance at the rate of one percent per month.

[Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-108, filed 9/16/83. Statutory Authority: RCW 74.08.090, 82-21-025 (Order 1892), § 388-96-108, filed 10/13/82.]

**WAC 388-96-110 Improperly completed or late reports.** (1) For 1981 and subsequent annual cost reporting periods, an annual report, including the proposed settlement computed by cost center pursuant to 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 388-96-119 Reports--False information.** (1) If a contractor knowingly or with reason to know files a report containing false information, such action constitutes cause for termination of its contract with the department.

(2) Adjustments to reimbursement rates required because a false report was filed will be made in accordance with WAC 388-96-769.

(3) Contractors filing false reports may be referred for prosecution under applicable statutes.

[Order 1262, § 388-96-119, filed 12/30/77.]

**WAC 388-96-122 Amendments to reports.** (1) For the purpose of determining audited allowable costs in computing a final settlement, an amendment to an annual report shall be considered only if filed by the provider prior to receipt by the provider of the notification scheduling the department's field audit, except that an amendment may be filed subsequent to such notification and pursuant to the provisions of WAC 388-96-769 solely for the purpose of adjusting reimbursement rates. In order to determine the date of receipt, all notifications scheduling field audits shall be sent by registered mail, return receipt requested. Amendments may be filed by the provider and considered by the department only if errors or omissions are discovered which are significant. 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 shall refuse to consider an amendment resulting in a more favorable settlement or rate 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.

(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, 86-10-055 (Order 2372), § 388-96-122, filed 5/7/86, effective 7/1/86; 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.]

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**WAC 388-96-131 Requirement for retention of reports by the department.** The department will retain each required report for a period of four years following the date the report was submitted. If at the end of four years there are unresolved audit questions, the report will be retained until such questions are resolved.

[Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-131, filed 9/16/83; Order 1262, § 388-96-131, 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 388-96-210 Scope of field audits.** (1) Auditors will review the contractor's recordkeeping and accounting practices and, where appropriate, make written recommendations for improvements.

(2) The audit will result in a schedule summarizing adjustments to the contractor's cost report whether such adjustments eliminate costs reported or include costs not reported. These adjustments shall include an explanation for the adjustment, the general ledger account or account group, and the dollar amount. Auditors will examine the contractor's financial and statistical records to verify that:

(a) Supporting records are in agreement with reported data;

(b) Only those assets, liabilities, and revenue and expense items the department has specified as allowable have been included by the contractor in computing the costs of services provided under its contract;

(c) Allowable costs have been accurately determined and are necessary, ordinary, and related to patient care;

(d) Related organizations and beneficial ownerships or interests have been correctly disclosed;

(e) Recipient trust funds have been properly maintained; and

(f) The contractor is otherwise in compliance with provisions of this chapter and chapter 74.46 RCW.

(3) Auditors will prepare draft audit narratives and summaries and provide them to the contractor before final narratives and summaries are prepared.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-210, filed 9/16/83; Order 1262, § 388-96-210, 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 388-96-220 Principles of settlement.** (1) For each cost center, a settlement shall be calculated at the lower of prospective reimbursement rate or audited allowable costs, except as otherwise provided in this chapter.

(2) Each contractor shall complete a proposed preliminary settlement by cost center as part of the annual cost report and submit it by the due date of the annual cost report. After review of the proposed preliminary settlement, the department shall issue by cost center a preliminary settlement report to the contractor.

(3) If a field audit is conducted, the audit findings shall be evaluated by the department after completion of the audit and a final settlement by cost center, including any allowable shifting or cost savings, shall be issued which takes account of such findings and evaluations.

(4) Pursuant to preliminary or final settlement and the procedures set forth in this chapter, the contractor shall refund overpayments to the department and the department shall pay underpayments to the contractor.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-220, filed 9/16/83.]

**WAC 388-96-221 Preliminary settlement.** (1) The proposed preliminary settlement submitted by a contractor pursuant to WAC 388-96-220(2) shall compare the prospective rates 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, to the contractor's 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.

(2) Within one hundred twenty days after a proposed preliminary settlement is received, the department shall review it for accuracy and either accept or reject the proposal of the contractor. If accepted, the proposed preliminary settlement shall become the preliminary settlement report. If rejected, the department shall issue a preliminary settlement report by cost center which shall fully substantiate disallowed costs, refunds, or underpayments due and adjustments to the proposed preliminary settlement.

(3) A contractor shall have thirty days after receipt of a preliminary settlement report to contest such report pursuant to WAC 388-96-901 and 388-96-904. Upon expiration of the thirty-day period, a preliminary settlement report shall not be subject to review.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-221, filed 9/16/83.]

**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 388-96-226 Shifting provisions.** In computing a preliminary or final settlement, savings (overpayment) in a cost center may be shifted to cover a deficit (underpayment) in another cost center up to the amount of the savings, provided that:

(1) Not more than twenty percent of the rate in a cost center may be shifted into that cost center; and

(2) No shifting may be made into the property cost center.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-226, 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 388-96-229 Procedures for overpayments and underpayments.** (1) The department shall make payment of underpayments determined by preliminary or final settlement within thirty days after the preliminary or final settlement report is submitted to the contractor.

(2) A contractor found to have received overpayments or payments in error as determined by preliminary or final settlement shall refund such payments to the department within thirty days after receipt of the preliminary or final settlement report as applicable.

(3) If a contractor fails to comply with subsection (2) of this section, the department shall:

(a) Deduct from current monthly amounts due the contractor the refund due the department and interest on the unpaid balance at the rate of one percent per month; or

(b) If the contract has been terminated:

(i) Deduct from any amounts due the contractor the refund due the department and interest on the unpaid balance at the rate of one percent per month; or

(ii) Pursue, as authorized by law and regulation, recovery of the refund due and interest on the unpaid balance at the rate of one percent per month.

(4) If a facility is pursuing timely filed administrative or judicial remedies in good faith regarding a proposed preliminary settlement report which was rejected or a final settlement report, the contractor need not refund nor shall the department withhold from current amounts due the facility any refund or interest the department claims to be due from the facility, provided the refund is specifically disputed by the contractor on review or appeal. Portions of refunds due the department which are not specifically disputed by the contractor on review or appeal are subject to recovery and assessment of interest as provided in subsection (3) of this section. If the administrative or judicial remedy sought by the facility is not granted or is granted only in part after exhaustion or mutual termination of all appeals, the facility shall refund all amounts due the department within sixty days after the date of decision or termination plus interest as payable on judgments from the date the review was requested pursuant to WAC 388-96-901 and 388-96-904 to the date the repayment is made.



[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-229, filed 9/16/83.]

**WAC 388-96-310 Interest on other excess payments.** (1) Any contractor obtaining benefits or payments under the medical assistance program to which such contractor is not entitled or in an amount to which such contractor is not entitled, shall be liable for such benefits or payments received and for interest on the amount of benefits or payments from the date of receipt until repayment is made to the department at the rate of one percent per month, unless the contractor establishes the overpayment was the result of errors made by the department.

(2) Interest charged by the department or interest expense incurred by the contractor, from whatever source, in making refund to the department shall not be reimbursable by the department as an allowable cost. The contractor may, by payment of a disputed settlement in whole or in part, stop accrual of interest on the amount paid. Such payment will be without prejudice to obtain review of a settlement determination.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-310, filed 9/16/83.]

**WAC 388-96-366 The provider shall establish and maintain.** (1) As a service to the recipient, a bookkeeping system, incorporated in the business records, adequate for audit, for all recipient moneys entrusted to and received by the facility for the recipient.

(2) The system will apply to the recipient who is:

(a) Incapable of handling his own money and whose guardian, relative, department economic and social service office administrator, or physician makes written request of the facility to accept this responsibility; if the social security form SSA-780, "certificate of applicant for benefits on behalf of another," is utilized as documentation, it must be signed by one of the persons designated in this subparagraph.

(b) Capable of handling his own money, but requests the facility in writing to accept this responsibility.

(3) It shall be the responsibility of the provider to maintain such written authorization in the recipient's file.

(4) The recipient must be given at least a quarterly reporting of all financial transactions in their trust account. The representative payee, the guardian and/or other designated agents of the recipient must be sent a copy of the quarterly accounting report.

[Order 1168, § 388-96-366, filed 11/3/76; Order 1114 § 388-96-366, filed 4/21/76.]

**WAC 388-96-369 The provider shall maintain a subsidiary ledger with an account for each recipient for whom the provider holds money in trust.** (1) Each account and related supporting information shall:

(a) Be maintained at the facility;

(b) Be kept current;

(c) Be balanced each month; and

(d) Show in detail, with supporting verification, all moneys received on behalf of the individual patient and the disposition of all moneys so received.

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(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 388-96-372 The provider may maintain a petty cash fund originating from trust moneys of an amount reasonable and necessary for the size of the facility and the needs of the patients, not to exceed \$500.00.** (1) This petty cash fund shall be an imprest

fund. All moneys over and above the trust fund petty cash amount shall be deposited intact in a trust fund checking account, separate and apart from any other bank account or accounts of the facility or other facilities.

(2) Cash deposits of recipient allowances must be made intact to the trust account within one week from the time that payment is received from the department, Social Security Administration, or other payor.

(3) Any related bankbooks, bank statements, checkbook, check register, and all voided and cancelled checks, shall be made available for audit and inspection by a department representative, and shall be maintained by the home for not less than four years.

(4) No service charges for such checking account shall be paid by recipient trust moneys.

(5) The trust account per bank shall be reconciled monthly to the trust account per patient ledgers.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-372, filed 9/16/83; Order 1114, § 388-96-372, filed 4/21/76.]

**WAC 388-96-375 Trust moneys control/disbursement.** Trust moneys shall be held in trust and are not to be turned over to anyone other than the recipient or his or her guardian without the written consent of the recipient, his or her designated agent as appointed by power of attorney, or appropriate department of social and health services personnel as designated by the CSO administrator.

(1) When moneys are received, a receipt should be filled out in duplicate; one copy should be given to the person making payment or deposit, and the other copy should be retained in the receipt book for easy reference.

(2) Checks received by patients must be endorsed by the patient. Schedule I-A(6e) of the agreement states in part: "Each patient receiving a check or state warrant is responsible for endorsement by his own signature. Only when the patient is incapable of signing his name may the Provider assume the responsibility of securing the patient's mark "X" followed by the name of the patient and the signature of two witnesses."

(3) If both the general fund account and the trust fund account are at the same bank, the trust portion of checks which include care payments can be deposited directly to trust by including a trust account deposit slip for the correct amount with the checks and the general account deposit slip.

(4) The patient's trust account ledger sheet must be credited with the allowance received. This should be referenced with the receipt number and must be supported by a copy of the deposit slip (one copy for all deposits made).

[Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-375, filed 10/13/82; Order 1168, § 388-96-375, filed 11/3/76; Order 1114, § 388-96-375, filed 4/21/76.]

**WAC 388-96-378 Trust moneys availability.** Moneys so held in trust for any recipient shall be available

for his or her personal and incidental needs when requested by the recipient or one of the individuals designated in WAC 388-96-375.

[Order 1114, § 388-96-378, filed 4/21/76.]

**WAC 388-96-381 Procedure for refunding trust money.** (1) When a recipient is discharged and/or transferred, the balance of the recipient's trust account will be returned to the individuals within one week designated in WAC 388-96-375 and a receipt obtained. In cases it may be advisable to mail the refund to the recipient's new residence.

[Order 1114, § 388-96-381, filed 4/21/76.]

**WAC 388-96-384 Liquidation of trust fund.** (1) Expired patient. The provider will obtain a receipt from next of kin, guardian, or duly qualified agent when releasing the balance of money held in trust. If there is no identified next of kin, guardian, or duly qualified agent, the CSO is to be contacted in writing within seven days for assistance in the release of the money held in trust. A check or other document showing payment to such next of kin, guardian, or duly qualified agent will serve as a receipt.

(2) Patient, unable to locate. In situations where the patient leaves the nursing home without authorization and his or her whereabouts are unknown:

(a) The nursing home will make a reasonable attempt to locate the missing patient. This includes: Contacting friends, relatives, police, the guardian, and the community services office in the area.

(b) If the patient cannot be located after ninety days, the nursing home must notify the department of revenue of the existence of "abandoned property," outlined in chapter 63.28 RCW. The nursing home will be required to deliver to the department of revenue the balance of the patient's trust fund account within twenty days following such notification.

[Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-384, filed 10/13/82; Order 1168, § 388-96-384, filed 11/3/76; Order 1114, § 388-96-384, filed 4/21/76.]

**WAC 388-96-501 Allowable costs.** Allowable costs are documented costs which are necessary, ordinary and related to the care of medical care recipients, and are not expressly declared nonallowable by applicable statutes or regulations. Costs are ordinary if they are of the nature and magnitude which prudent and cost-conscious management would pay.

[Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-501, filed 2/25/81. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-501, filed 6/1/78; Order 1262, § 388-96-501, filed 12/30/77.]

**WAC 388-96-502 Indirect and overhead costs.** If a contractor 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. 86-10-055 (Order 2372), § 388-96-502, filed 5/7/86, effective 7/1/86; 84-12-039 (Order 2105), § 388-96-502, filed 5/30/84.]

**WAC 388-96-503 Substance prevails over form.** (1) In determining allowable costs, the substance of a transaction will prevail over the form of the transaction. Accordingly, allowable costs will not include increased costs resulting from transactions or the application of accounting methods which circumvent the principles of the prospective cost-related reimbursement system.

(2) Increased costs resulting from a series of transactions between the same parties and involving the same assets (e.g., sale, and leaseback, successive sales or leases of a single facility or piece of equipment) will not be allowed.

[Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-503, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-503, filed 2/25/81; Order 1262, § 388-96-503, filed 12/30/77.]

**WAC 388-96-505 Offset of miscellaneous revenues.**

(1) Allowable costs shall be reduced by the contractor whenever the item, service, or activity covered by such costs generates revenue or financial benefits (e.g., purchase discounts or rebates) other than through the contractor's normal billing for care services; except that, unrestricted grants, gifts, and endowments, and interest therefrom, will not be deducted from the allowable costs of a nonprofit facility.

(2) 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 388-96-507 Costs of meeting standards.** All necessary and ordinary expenses a contractor incurs in providing care services meeting all applicable standards will be allowable costs. The expenses include necessary and ordinary costs of:

- (1) Meeting licensing and certification standards;
- (2) Meeting standards of providing regular room, nursing, ancillary, and dietary services, in accordance with WAC 388-88-050 and 388-88-051;
- (3) Fulfilling accounting and reporting requirements imposed by this chapter; and
- (4) Performing any patient assessment activity required by the department.

[Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-507, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-507, filed 2/25/81. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-507, filed 6/1/78; Order 1262, § 388-96-507, filed 12/30/77.]

**WAC 388-96-508 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 388-96-513 Limit on costs to related organizations.** (1) Costs applicable to services, facilities and supplies furnished by organizations related to the contractor shall be allowable only to the extent they do not exceed the lower of the cost to the related organization or the price of comparable services, facilities or supplies purchased elsewhere. The term "related organization" is defined in WAC 388-96-010.

(2) Documentation of costs to related organizations shall be made available to the auditor at the time and place the financial records relating to the entity are audited. Payments to or for the benefit of the related organization will be disallowed where the cost to the related organization cannot be documented.

[Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-513, filed 2/25/81; Order 1262, § 388-96-513, filed 12/30/77.]

**WAC 388-96-521 Start-up costs.** Necessary and ordinary start-up costs, as defined in WAC 388-96-010, will be allowable in the administration and operations cost area if they are amortized over not less than sixty consecutive months beginning with the month in which the first patient is admitted for care.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-521, filed 9/16/83; Order 1262, § 388-96-521, filed 12/30/77.]

**WAC 388-96-523 Organization costs.** (1) Necessary and ordinary costs which are directly incident to the creation of a corporation or other form of business of the contractor and that are incurred prior to the admission of the first patient, will be allowable in the administration and operations cost area if they are amortized over not less than sixty consecutive months beginning with the month in which the first patient is admitted for care.

(2) Allowable organization costs include but are not limited to legal fees incurred in establishing the corporation or other organization and fees paid to states for incorporation. They do not include costs relating to the issuance and sale of shares of capital stock or other securities.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-523, filed 9/16/83. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-523, filed 2/25/81; Order 1262, § 388-96-523, filed 12/30/77.]

**WAC 388-96-525 Education and training.** (1) Necessary and ordinary expenses of on-the-job training and in-service training required for employee orientation and certification training directly related to the performance of duties assigned will be allowable costs.

(2) Ordinary expenses of nursing assistant training conducted pursuant to chapter 18.52A RCW will be allowable costs.

(3) Necessary and ordinary expenses of recreational and social activity training conducted by the contractor for volunteers will be allowable costs. Expenses of training programs for other nonemployees will not be allowable costs.

(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 388-96-529 Total compensation—Owners, relatives, and certain administrative personnel.** For purposes of the tests in WAC 388-96-531, 388-96-533, and 388-96-535, total compensation shall be as provided in the employment contract, including benefits, whether such contract is written, verbal, or inferred from the acts of the parties. In the absence of a contract, total compensation shall include gross salary or wages and benefits (e.g., health insurance) made available to all employees, but excluding payroll taxes paid by the contractor.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-529, filed 9/16/83; 81-22-081 (Order 1712), § 388-96-529, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800.

81-06-024 (Order 1613), § 388-96-529, filed 2/25/81; Order 1262, § 388-96-529, filed 12/30/77.]

**WAC 388-96-531 Owner or relative—Compensation.** (1) Total compensation of an owner or relative of an owner shall be limited to ordinary compensation for necessary services actually performed.

(a) Compensation is ordinary if it is the amount usually paid for comparable services in a comparable facility to an unrelated employee, and does not exceed limits set out in this chapter.

(b) A service is necessary if it is related to patient care and would have had to be performed by another person if the owner or relative had not done it.

(2) The contractor, in maintaining customary time records adequate for audit, shall include such records for owners and relatives who receive compensation. Such records shall document compensated time was spent in provision of necessary services actually performed.

(3) For purposes of this section, if the contractor with the department is a corporation, "owner" includes all corporate officers and directors.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-531, filed 9/16/83. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-531, filed 2/25/81; Order 1262, § 388-96-531, filed 12/30/77.]

**WAC 388-96-533 Maximum allowable compensation of certain administrative personnel.** (1) Compensation for administrative personnel shall be an allowable cost, subject to the limits promulgated pursuant to subsection (5) of 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 promulgated pursuant to 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 promulgated pursuant to 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 promulgated pursuant to subsection (5) of this section.

(5)

TABLE

## Maximum Allowable Total Compensation for Licensed Administrators—Calendar Year 1986

Bed Size	
1 - 79	\$ 32,471
80 - 159	\$ 35,935
160 and up	\$ 38,202

(6) Tables to be promulgated in writing by the department for subsequent years shall determine maximum total compensation for licensed administrators of nursing facilities in the various bed size categories. For 1987 and subsequent years, tables shall reflect calendar year 1986 maximums increased by any inflation adjustment authorized by the legislature.

(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 promulgated pursuant to 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 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.

[Title 388 WAC—p 380]

[Statutory Authority: RCW 74.46.800. 86-10-055 (Order 2372), § 388-96-533, filed 5/7/86, effective 7/1/86; 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 388-96-534 Disclosure and approval of joint facility cost allocation.** (1) The contractor shall disclose to the department:

(a) The nature and purpose of all costs which represent allocations of joint facility costs; and

(b) The methodology of the allocation utilized.

(2) Such disclosure shall demonstrate that:

(a) The services involved are necessary and nonduplicative; and

(b) Costs are allocated in accordance with benefits received from the resources represented by those costs.

(3) Such disclosure shall be made not later than September 30th for each year; except that a new contractor shall submit the first year's disclosure together with the submissions required by WAC 388-96-026. Where a contractor will make neither a change in the joint costs to be incurred nor in the allocation methodology, the contractor may certify no change will be made in lieu of the disclosure required in subsection (1) of this section.

(4) The department shall approve such methodology not later than December 31, 1980, and not later than December 31st for each year thereafter.

(5) An amendment or revision to an approved methodology shall be submitted to the department for approval at least ninety days prior to the effective date of the amendment or revision.

(6) Where a contractor will begin to incur joint facility costs at some time other than the beginning of the calendar year, the contractor shall provide the information required in subsections (1) and (2) of this section at least ninety days prior to the date at which the cost will first be incurred.

(7) Joint facility costs not disclosed, allocated, and reported in conformity with this section are nonallowable costs.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-534, filed 9/16/83; 80-09-083 (Order 1527), § 388-96-534, filed 7/22/80.]

**WAC 388-96-535 Management agreements, management fees, and central office services.** (1) If a contractor intends to enter into a management agreement with an individual or firm which will manage the nursing home as agent of the contractor, a copy of the agreement must be received by the department at least sixty days before the agreement is to become effective. A copy of any amendment to a management agreement must be received by the department at least thirty days in advance of the date the amendment is to become effective. No management fees for periods prior to the time the department receives a copy of the applicable

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agreement will be allowable. When necessary for the health and safety of medical care recipients, the sixty-day notice requirement may be waived, in writing, by the department.

(2) Management fees will be allowed only if:

(a) A written management agreement both creates a principal/agent relationship between the contractor and the manager, and sets forth the items, services, and activities to be provided by the manager; and

(b) Documentation demonstrates the services contracted for were actually delivered.

To be allowable, fees must be for necessary, nonduplicative services.

(3) Allowable fees for general management services, including corporate or business entity management and board of director's fees and including the portion of a management fee which is not allocated to specific services such as accounting, are limited to:

(a) The maximum allowable compensation under WAC 388-96-533 of the licensed administrator and, if the facility has at least eighty beds, of an assistant administrator, less

(b) Actual compensation received by the licensed administrator and by the assistant administrator and administrator-in-training, if any. In computing maximum allowable compensation under WAC 388-96-533 for a facility with at least eighty set-up beds, include the maximum compensation of an assistant administrator even if no assistant administrator is employed.

(4) A management fee paid to or for the benefit of a related organization will be allowable to the extent the fee does not exceed the lesser of:

(a) The limits set out in subsection (3) of this section; or

(b) The lower of the actual cost to the related organization of providing necessary services related to patient care under the agreement, or the cost of comparable services purchased elsewhere. Where costs to the related organization represent joint facility costs, the measurement of such costs shall comply with WAC 388-96-534.

(5) Central office costs, owner's compensation, and other fees or compensation, including joint facility costs, for general administrative and management services, including the portion of a management expense which is not allocated to specific services, shall be subject to the management fee limits determined in subsections (3) and (4) of this section.

(6) Necessary travel and housing expenses of nonresident staff working at a contractor's nursing facility are allowable costs if the visit does not exceed three weeks. Travel and housing expenses necessary for visits in excess of three weeks are management costs and shall be subject to the management fee limits determined in subsections (3) and (4) of this section.

(7) Bonuses paid to employees at a contractor's nursing facility are compensation. Bonuses paid to employees at a contractor's central office or otherwise not employed at the nursing facility, who are not engaged in nonmanagerial services such as accounting, are management costs and shall be subject to the management fee

limits determined in subsections (3) and (4) of this section.

[Statutory Authority: RCW 74.46.800, 86-10-055 (Order 2372), § 388-96-535, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-535, filed 9/16/83; 81-22-081 (Order 1712), § 388-96-535, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800, 81-06-024 (Order 1613), § 388-96-535, filed 2/25/81. Statutory Authority: RCW 74.09.120, 80-09-083 (Order 1527), § 388-96-535, filed 7/22/80; 79-03-020 (Order 1371), § 388-96-535, filed 2/21/79; Order 1262, § 388-96-535, filed 12/30/77.]

#### WAC 388-96-543 Expense for construction interest.

Interest expense and loan origination fees relating to construction of a nursing home incurred during the period of construction shall be capitalized and amortized over the life of the facility from the date the first patient is admitted. The period of construction shall extend from the date of the construction loan to the date the facility is put into service for patient care, not to exceed the project certificate of need time period.

[Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-543, filed 9/16/83; 81-22-081 (Order 1712), § 388-96-543, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800, 81-06-024 (Order 1613), § 388-96-543, filed 2/25/81; Order 1262, § 388-96-543, filed 12/30/77.]

WAC 388-96-553 Capitalization. The following costs shall be capitalized:

(1) Expenditures for and costs of equipment, including furniture and furnishings, with historical cost in excess of one hundred fifty dollars per unit and a useful life of more than one year from the date of purchase;

(2) Expenditures and costs for equipment, including furniture and furnishings, with historical cost of one hundred fifty dollars or less per unit if either:

(a) The item of equipment was acquired in a group purchase where the total cost exceeded one hundred fifty dollars; or

(b) The item of equipment was part of the initial equipment or stock of the nursing home.

(3) Effective January 1, 1981, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods beginning July 1, 1982, and subsequently, subsections (1) and (2) of this section shall be applied with the sum of five hundred dollars replacing the sum of one hundred fifty dollars.

(4) Effective January 1, 1983, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods beginning July 1, 1984, and subsequently subsections (1) and (2) of this section shall be applied with the sum of seven hundred fifty dollars replacing the sum of one hundred fifty dollars.

(5) Expenditures for and costs of building, and other real property items, components, and improvements, whether for leased or owner-operated facilities, in excess of five hundred dollars and involving one or more of the following:

(a) Increase of the interior floor space of the structure;

(b) Increase or renewal of paved areas outside the structure;

(c) Exterior or interior remodeling of the structure;

(d) Installation of additional heating, cooling, electrical, water-related, or similar fixed equipment;

(e) Landscaping or redecorating;

(f) Any change, including repairs, which increases the useful life of the structure or item if not a part of the structure by two years or more;

(g) Any replacement or renewal of a real property item, component or improvement, whether structural or nonstructural.

(6) For a leasehold improvement, the asset shall be amortized over the asset's useful life in accordance with Internal Revenue Service class life ADR system guidelines or in accordance with American Hospital Association guidelines.

[Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-553, filed 9/16/83; 83-05-007 (Order 1944), § 388-96-553, filed 2/4/83; 82-11-065 (Order 1808), § 388-96-553, filed 5/14/82. Statutory Authority: RCW 74.09.120 and 74.46.800, 81-06-024 (Order 1613), § 388-96-553, filed 2/25/81; Order 1262, § 388-96-553, filed 12/30/77.]

**WAC 388-96-554 Expensing.** The following costs shall be expensed:

(1) Expenditures for and costs of equipment, including furniture and furnishings, with historical cost of one hundred fifty dollars or less per unit or a useful life of one year or less from the date of purchase.

(2) Subsection (1) of this section shall not apply if:

(a) The item of equipment was acquired in a group purchase where the total cost exceeded one hundred fifty dollars; or

(b) The item of equipment was part of the initial equipment or stock of the nursing home.

(3) Effective January 1, 1981, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods beginning July 1, 1982, and subsequently, subsections (1) and (2) of this section shall be applied with the sum of five hundred dollars replacing the sum of one hundred fifty dollars.

(4) Effective January 1, 1983, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods beginning July 1, 1984, and subsequently subsections (1) and (2) of this section shall be applied with the sum of seven hundred fifty dollars replacing the sum of one hundred fifty dollars.

(5) Expenditures for and costs of building and other real property items, components and improvements, whether for leased or owner-operated facilities, of five hundred dollars or less.

(6) Expenditures for and costs of repairs necessary to maintain the useful life of equipment, including furniture and furnishings, and real property items, components or improvements which do not increase the useful life of the asset by two years or more. If a repair is to the interior or exterior of the structure, the term "asset" shall refer to the structure.

(7) Remaining undepreciated cost of equipment, including furniture or furnishings or real property items, components, or improvements which are retired and not replaced, provided such cost shall be offset by any proceeds or compensations received for such assets, and such cost shall be expensed only if the contractor has

made a reasonable effort to recover at least the outstanding book value of such assets. If a retired asset is replaced, WAC 388-96-572(3) shall apply and the replacement or renewal shall be capitalized if required by WAC 388-96-553.

[Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-554, filed 9/16/83; 83-05-007 (Order 1944), § 388-96-554, filed 2/4/83.]

**WAC 388-96-555 Depreciation expense.** Depreciation expense on depreciable assets which are required in the regular course of providing patient care will be an allowable cost. It shall be (1) identifiable and recorded in the contractor's accounting records and (2) computed using the depreciation base, lives and methods specified below.

[Order 1262, § 388-96-555, filed 12/30/77.]

**WAC 388-96-557 Depreciable assets.** (1) Tangible assets of the following types in which a contractor has an economic interest through ownership 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 total depreciation base shall be the lowest of the contractor's appraisal, if any, the department's appraisal obtained through the department of general administration of the state of Washington, if any, or 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 through the department of general administration of the state of Washington. The contractor may allocate or reallocate values among land, building, improvements, and equipment in accordance with the department's 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 74.46.800. 86-10-055 (Order 2372), § 388-96-559, filed 5/7/86, effective 7/1/86. 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 388-96-565 Lives.** (1) The contractor shall use lives reflecting the estimated actual useful life of assets, for example, land improvements, buildings, equipment, leasehold improvements, and other assets, and shall be no shorter than guideline lives contained in the Internal Revenue Service class life ADR system or published by the American Hospital Association in computing allowable depreciation. The shortest life which may be used for buildings is thirty years.

(2) Lives shall be measured from the date on which the assets were first used in the medical care program or from the date of the most recent arm's-length acquisition of the asset, whichever is more recent. Lives shall be extended to reflect periods, if any, during which assets were not used to provide nursing care.

(3) Building improvements shall be depreciated over the remaining useful life of the building, as modified by the improvement, but not less than fifteen years.

(4) Improvements to leased property which are the responsibility of the contractor under the terms of the

lease shall be depreciated over the useful life of the improvement.

(5) A contractor may change the estimate of an asset's useful life to a longer life for purposes of depreciation.

[Statutory Authority: RCW 74.46.800. 86-10-055 (Order 2372), § 388-96-565, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-565, filed 9/16/83; 81-22-081 (Order 1712), § 388-96-565, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-565, filed 2/25/81; Order 1262, § 388-96-565, filed 12/30/77.]

**WAC 388-96-567 Methods of depreciation.** (1) Buildings, building improvements, land improvements, leasehold 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 74.46.800. 86-10-055 (Order 2372), § 388-96-567, filed 5/7/86, effective 7/1/86. 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 388-96-569 Retirement of depreciable assets.** (1) Where depreciable assets are disposed of through sale, trade-in, scrapping, exchange, theft, wrecking, or fire or other casualty, depreciation shall no longer be taken on the assets. No further depreciation shall be taken on permanently abandoned assets.

(2) Where an asset has been retired from active use but is being held for stand-by or emergency service, and the department has determined that it is needed and can be effectively used in the future, depreciation may be taken.

[Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-569, filed 2/25/81; Order 1262, § 388-96-569, filed 12/30/77.]

**WAC 388-96-571 Handling of gains and losses upon retirement of depreciable assets settlement periods prior to 1/1/81 and rate periods prior to 7/1/82.** (1) For settlement purposes for periods prior to January 1, 1981, and for rate-setting purposes for periods prior to July 1, 1982, gains and losses on the retirement of depreciable assets either during the period of participation in the

program or within twelve months following termination, shall be treated in accordance with this section.

(2) A gain or loss on the retirement of an asset shall be the difference between the remaining undepreciated base and any proceeds received for, or to compensate for loss of, the asset. For purposes of subsections (3) and (4) of this section, the total gain shall be reduced by one percent for each month of ownership of an asset with an expected useful life of one hundred months or longer. For an asset with an expected useful life of less than one hundred months, total gain shall be reduced by the portion thereof equal to the ratio of the actual life of the asset from its most recent arms-length acquisition up to the date of retirement to its expected useful life.

(3) If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided that a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset.

(4) If the retired asset is not replaced, or if the contractor is terminating its contract, the gain or loss shall be spread over the actual life of the asset up to the date of retirement, provided that a loss will only be so spread if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset. The difference between reimbursement actually paid for depreciation in any period beginning on or after January 1, 1978, and the reimbursement for depreciation which would have been paid with the base adjusted to reflect the gain or loss, will be computed. Where the difference results from a gain, it shall be recovered by the department. Where the difference results from a loss, it will be added to allowable costs for purposes of determining settlement.

[Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-571, filed 2/25/81. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-571, filed 6/1/78; Order 1262, § 388-96-571, filed 12/30/77.]

**WAC 388-96-572 Handling of gains and losses upon retirement of depreciable assets--Other periods.** (1) This section shall apply in the place of WAC 388-96-571 effective January 1, 1981, for purposes of settlement for settlement periods subsequent to that date, and for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently.

(2) A gain or loss on the retirement of an asset shall be the difference between the remaining undepreciated base and any proceeds received for, or to compensate for loss of, the asset.

(3) If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided that a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset.

(4) If the retired asset is not replaced, any gain shall be offset against property expense for the period during which it is retired and any loss shall be expensed subject to the provisions of WAC 388-96-554(6).

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-572, filed 9/16/83. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-572, filed 2/25/81.]

**WAC 388-96-573 Recovery of excess over straight-line depreciation.** This section shall apply to settlement periods prior to January 1, 1981, only. If a contractor terminates its contract without selling or otherwise retiring equipment which was depreciated using an accelerated method, depreciation schedules relating to these assets for periods during which the contractor participated in the program shall be adjusted. The difference between reimbursement actually paid for depreciation in any period beginning on or after January 1, 1978, and the reimbursement which would have been paid for depreciation if the straight-line method had been used, will be recovered by the department.

[Statutory Authority: RCW 74.09.120. 83-05-007 (Order 1944), § 388-96-573, filed 2/4/83; Order 1262, § 388-96-573, 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. 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 relating to those issues where a final administrative decision is rendered in favor of the department or where otherwise the determination of the department stands at the termination of administrative review; or in connection with a fair hearing where a final administrative decision has not been rendered; or in connection with a fair hearing where related costs are not reported as unallowable and identified by fair hearing docket number in the period they are incurred assuming no final administrative decision has been rendered at the end of the report period; or in connection with a fair hearing where related costs are not reported as allowable, identified by docket number, and prorated by the number of issues decided favorably to a contractor in the period a final administrative decision is rendered.

(ff) Legal and consultant fees in connection with a lawsuit against the department, including suits which are appeals of administrative decisions.

(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.

(ll) Board of director fees for services in excess of one hundred dollars per board member, per meeting, not to exceed twelve meetings per year.

(mm) Moving expenses of employees in the absence of a demonstrated, good-faith effort to recruit within the states of Idaho, Oregon, and Washington, and the Province of British Columbia.

[Statutory Authority: RCW 74.46.800. 86-10-055 (Order 2372), § 388-96-585, filed 5/7/86, effective 7/1/86; 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 388-96-704 Prospective reimbursement rates.

(1) The department will determine prospective reimbursement rates for SNF and ICF services provided to recipients. Each rate represents the contractor's maximum compensation for one patient day of care of a recipient determined by the department to require SNF or ICF care.

(2) A contractor may also be assigned an individual prospective rate for a specific recipient determined by the department to require exceptional care.

[Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-704, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-704, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-704, filed 1/9/78.]

**WAC 388-96-705 Payment for services after settlement.** When payment for services is first made following preliminary or final settlement for the period during which the services were provided, payment will be at the most recent available settlement rate.

[Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-705, filed 11/4/81.]

**WAC 388-96-707 Program services not covered by the reimbursement rate.** Medical services which are part of the department's medical care program but not included in SNF or ICF services are not covered by the prospective reimbursement rate. Payment is made directly to the provider of service in accordance with chapter 388-87 WAC. Items and services covered by the medical care program are listed in chapter 388-86 WAC.

[Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-707, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-707, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-707, filed 1/9/78.]

**WAC 388-96-710 Prospective reimbursement rate for new contractors.** (1) A prospective reimbursement

rate for a new contractor will be established within sixty days following receipt by the department of a properly completed projected budget (see WAC 388-96-026). It will be effective as of the effective date of the contract.

(2) This prospective reimbursement rate will be based on the contractor's projected cost of operations, and on costs and payment rates of the prior contractor, if any, and/or of other contractors in comparable circumstances, taking into account applicable lids or maximums.

(3) If a properly completed projected budget is not received at least sixty days prior to the effective date of the contract, the department will establish a preliminary rate based on the other factors specified in subsection (2) of this section. This preliminary prospective rate will remain in effect until an initial prospective rate can be set.

(4) Where a change of ownership is involved which is not an arm's-length transaction as defined in WAC 388-96-010, the new contractor's prospective rates in the administration and operation and property cost areas will be no higher than the rates of the old contractor, adjusted if necessary to take into account economic trends.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-710, filed 9/16/83; 78-02-013 (Order 1264), § 388-96-710, filed 1/9/78.]

**WAC 388-96-713 Rate determination.** (1) Each contractor's reimbursement rate will be determined prospectively once each calendar year to be effective July 1. Rates may be adjusted more frequently to take into account program changes.

(2) If the contractor participated in the program for at least six months of the prior calendar year, its nursing services, administration and operations, property and return on equity rates will be determined based on the contractor's allowable costs in the prior period. If the contractor participated in the program for less than six months of the prior calendar year, its rates will be determined by procedures set forth in WAC 388-96-710.

(3) Beginning with rates effective July 1, 1984, contractors submitting correct and complete cost reports by March 31st, shall be notified of their rates by July 1st, unless circumstances beyond the control of the department interfere.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-713, filed 9/16/83; 81-15-049 (Order 1669), § 388-96-713, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-713, filed 5/30/80, effective 7/1/80; 78-02-013 (Order 1264), § 388-96-713, filed 1/9/78.]

**WAC 388-96-716 Cost areas.** A contractor's overall reimbursement rate for medical care recipients consists of the total of five component rates, each covering one cost area. The five cost areas are:

- (1) 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 medical care component of the consumer price index shall be limited to a rate determined by their adjusted patient care costs for the period immediately preceding the most recent cost report period 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 74.46.800. 86-10-055 (Order 2372), § 388-96-722, filed 5/7/86, effective 7/1/86. 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 388-96-727 Food cost area rate.** (1) The food cost area rate will reimburse for the necessary and ordinary costs of procuring food, dietary supplements, and beverages for meals and between-meal nourishment for recipients.

(2) Reimbursement for the food cost center shall be at the January 1, 1983, rate, adjusted for inflation utilizing the inflation factor specified in WAC 388-96-719 (3)(b).

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-727, filed 9/16/83; 81-15-049 (Order 1669), § 388-96-727, filed 7/15/81; 79-12-085 (Order 1461), § 388-96-727, filed 11/30/79; 78-02-013 (Order 1264), § 388-96-727, filed 1/9/78.]

**WAC 388-96-735 Administration and operations cost area rate.** (1) The administration and operations cost area reimbursement rate will reimburse for the necessary and ordinary costs of overall management of the facility, operation and maintenance of the physical plant, and providing dietary service (other than the cost of food and beverages), medical supplies, taxes, and insurance.

(2) 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 388-96-745 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 388-96-752 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. The per patient day variable return allowance in the initial rate of a new contractor shall be the same as that in the rate of the preceding contractor, if any.

(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) The information from the two prior reporting periods used to set the two prospective return on investment rates in effect during the settlement year is subject to field audit. If the financing allowances which can be documented and calculated at audit of the prior periods are different than the prospective financing allowances previously determined by desk-reviewed, reported information, and other relevant information, the prospective financing allowances shall be adjusted to the audited level at final settlement of the year the rates were in effect. Any adjustments to the financing allowances pursuant to this subsection shall be for settlement purposes only. However, the variable return allowances shall be the prospective allowances determined by desk-reviewed, reported information, and other relevant information and shall not be adjusted to reflect prior-period audit findings.

[Statutory Authority: RCW 74.46.800. 86-10-055 (Order 2372), § 388-96-754, filed 5/7/86, effective 7/1/86. 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 388-96-763 Rates for recipients requiring exceptionally heavy care.** (1) A contractor certified to care for SNF patients may apply for an individual prospective reimbursement rate for a recipient whose special nursing and direct care-related service needs are such that the cost of care will be at least twice the contractor's current reimbursement rate.

(2) Application for an individual rate for an exceptionally heavy care recipient shall be made in accordance with instructions furnished by the department.

(3) An individual rate for an exceptionally heavy care recipient will be granted for a specified period of time,



subject to extension, revision, or termination depending on the recipient's care requirements at the end of such period. It will be computed to cover the projected actual costs of care of the recipient.

(4) The contractor will be informed in writing of the disposition of its application as soon as possible and in no case longer than thirty days following receipt of a properly completed application.

[Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-763, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-763, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-763, filed 1/9/78.]

**WAC 388-96-764 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 388-96-766 Notification of rates.** The department will notify each contractor in writing of its prospective reimbursement rate. Unless otherwise specified at the time it is issued, the rate will be effective from the first day of the month in which it is issued until a new rate becomes effective. If a rate is changed as the result of an appeal in accordance with WAC 388-96-904, it will be effective as of the date the rate appealed from became effective.

[Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-766, filed 1/9/78.]

**WAC 388-96-767 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 388-96-769 Adjustments required due to errors or omissions.** (1) Prospective rates are subject to adjustment by the department in accordance with this section and subject to WAC 388-96-122 as a result of

errors or omissions by the department or by the contractor. The department will notify the contractor in writing of each adjustment and of the effective date of the adjustment, and of any amount due to the department or to the contractor as a result of the rate adjustment. Rates adjusted in accordance with this section will be effective as of the effective date of the original rate whether the adjustment is solely for computing a preliminary or final settlement or for the purpose of modifying past or future rate payments as well.

(2) If a contractor claims an error or omission based upon incorrect cost reporting, amended cost report pages shall be prepared and submitted by the contractor. Amended pages shall be accompanied by the certification required by WAC 388-96-117 and a written justification explaining why the amendment is necessary. Such amendments shall not be accepted unless the amendments meet the requirements of WAC 388-96-122. If changes made by the amendments are determined to be material by the department according to standards established by the department, such amended pages shall be subject to field audit. If a field audit or other information available to the department determines the amendments are incorrect or otherwise unacceptable, any rate adjustment based on the amendment shall be null and void and future rate payment increases, if any, scheduled as a result of such an adjustment shall be cancelled immediately. Payments made based upon the rate adjustment shall be subject to repayment as provided in subsection (3) of this section.

(3) The contractor shall pay an amount owed the department resulting from an error or omission or from an improper adjustment, or commence repayment in accordance with a schedule determined by the department, within sixty days after receipt of notification of the rate adjustment or rate adjustment cancellation, unless the contractor contests the department's determination in accordance with the procedures set forth in WAC 388-96-904. If the determination is contested, the contractor shall pay or commence repayment within sixty days after completion of these proceedings. If a refund is not paid when due, the amount thereof may be deducted from current payments by the department.

(4) If a cost report amendment is accepted for rate adjustment and was received by the department prior to the end of the period to which the rate is assigned, the department shall make any retroactive payment to which the contractor may be entitled within thirty days after the contractor is notified of the rate adjustment and shall increase future rate payments for the rate period, as appropriate.

(5) If a cost report amendment is received by the department subsequent to the rate period, notification of an adjustment or other disposition shall be made at preliminary or final settlement. Adjustments resulting from amendments received after the rate period shall be for the sole purpose of computing the preliminary or final settlement and no retroactive payment shall be made to the contractor. In accordance with WAC 388-96-229(1), any amount due a contractor as determined at preliminary or final settlement shall be paid within

thirty days after the preliminary or final settlement report is submitted to the contractor.

(6) No adjustments for any purpose will be made to a rate more than one hundred twenty days after the final audit narrative and summary for the period the rate was effective is sent to the contractor or more than one hundred twenty days after the preliminary settlement becomes the final settlement. A final settlement within this one hundred twenty-day time limit may be reopened for the limited purpose of making an adjustment to a prospective rate in accordance with this section. However, only the adjustment and related computation will be subject to review if timely contested pursuant to WAC 388-96-901 and 388-96-904. Other actions relating to a settlement reopened shall not be subject to review unless previously contested in a timely manner.

[Statutory Authority: RCW 74.46.800. 86-10-055 (Order 2372), § 388-96-769, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120. 82-11-065 (Order 1808), § 388-96-769, filed 5/14/82; 81-22-081 (Order 1712), § 388-96-769, filed 11/4/81; 78-02-013 (Order 1264), § 388-96-769, filed 1/9/78.]

#### WAC 388-96-773 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 388-96-775 Public review of rate-setting methods and standards.** The department will provide all interested members of the public with an opportunity to review and comment on proposed rate-setting methods and standards each year before they are used to set rates.

[Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-775, filed 1/9/78.]

**WAC 388-96-778 Public disclosure of rate-setting methodology.** Without identifying individual nursing homes, the department will make available to the public full information regarding its rate-setting methodology.

[Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-778, filed 1/9/78.]

**WAC 388-96-801 Billing period.** A contractor shall bill the department for care provided to medical care recipients from the first through the last day of each calendar month.

[Order 1262, § 388-96-801, filed 12/30/77.]

**WAC 388-96-804 Billing procedures.** (1) A contractor shall bill the department each month by completing and returning the nursing home statement provided by the department. This form shall be completed and filed in accordance with instructions issued by the department.

(2) A contractor shall not bill the department for service provided to a recipient until an award letter relating to the recipient has been received except in accordance with department policies and procedures. At that time it may bill for service provided back through the date the recipient was admitted or became eligible.

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(3) Billing shall not cover the day of a recipient's death, discharge or transfer from the nursing home.

[Statutory Authority: RCW 74.09.120. 82-20-024 and 82-20-036 (Orders 1883 and 1883A), § 388-96-804, filed 9/29/82 and 9/30/82; Order 1262, § 388-96-804, filed 12/30/77.]

**WAC 388-96-807 Charges to patients.** (1) The department will notify a contractor of the amount each medical care recipient is required to pay for care provided under the contract and the effective date of such required contribution. It is the contractor's responsibility to collect that portion of the cost of care from the patient, and to account for any authorized reduction from his or her contribution in accordance with procedures established by the department.

(2) If a contractor receives documentation showing a change in the income or resources of a recipient which will mean a change in his or her contribution toward the cost of care, this shall be reported in writing to the CSO within seventy-two hours. If necessary, appropriate corrections shall be made in the next nursing home statement, and a copy of documentation supporting the change shall be attached. If increased funds for a recipient are received by a contractor, the normal amount shall be allowed for clothing, personal and incidental expense, and the balance applied to the cost of care.

(3) The contractor shall accept the reimbursement rate established by the department as full compensation for all services it is obligated to provide under the contract, certification as specified by Title XIX, and licensure under chapter 18.51 RCW. The contractor shall not seek or accept additional compensation from or on behalf of a recipient for any or all such services.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-807, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-807, filed 10/13/82; Order 1262, § 388-96-807, filed 12/30/77.]

**WAC 388-96-810 Payment.** (1) The department will reimburse a contractor for service rendered under the nursing home contract and billed for in accordance with WAC 388-96-804.

(2) The amount paid will be computed using the appropriate rate assigned to the contractor.

(3) The special rate assigned to a contractor by the department for the care of an exceptional care recipient will be used in computing the amount paid for care of such recipient.

(4) For each recipient, the department will pay an amount equal to the appropriate rate or rates, multiplied by the number of patient days each rate was in effect, less the amount the recipient is required to pay for his or her care (see WAC 388-96-807).

[Order 1262, § 388-96-810, filed 12/30/77.]

**WAC 388-96-813 Suspension of payment.** (1) Payments to a contractor may be withheld by the department in each of the following circumstances:

(a) A required report is not properly completed and filed by the contractor within the appropriate time period, including any approved extensions. Payments will

be released as soon as a properly completed report is received.

(b) Auditors or other authorized department personnel in the course of their duties are refused access to a nursing home or are not provided with existing appropriate records. Payments will be released as soon as such access or records are provided.

(c) A refund in connection with a settlement or rate adjustment is not paid by the contractor when due. The amount withheld will be limited to the unpaid amount of the refund.

(d) Payment for the final thirty days of service under a contract will be held pending final settlement when the contract is terminated.

(2) No payment will be withheld until written notification of the suspension is given to the contractor, stating the reason therefor.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-813, filed 9/16/83; Order 1262, § 388-96-813, filed 12/30/77.]

**WAC 388-96-816 Termination of payments.** All payments to a contractor will end no later than sixty days after any of the following occurs:

(1) A contract expires, is terminated, or is not renewed;

(2) A facility license is revoked; or

(3) A facility is decertified as a Title XIX facility.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-816, filed 9/16/83; Order 1262, § 388-96-816, filed 12/30/77.]

**WAC 388-96-901 Disputes.** (1) If a reimbursement rate issued to a contractor is believed to be incorrect because it is based on errors or omissions by the contractor or department, the contractor may request an adjustment pursuant to WAC 388-96-769. Pursuant to WAC 388-96-904(1) a contractor may within thirty days request an administrative review after notification of an adjustment or refusal to adjust.

(2) If a contractor wishes to contest the way in which a rule, contract provision, or policy statement relating to the prospective cost-related reimbursement system was applied to the contractor by the department, e.g., in setting a reimbursement rate or determining a disallowance at audit, it shall first pursue the administrative review process set out in WAC 388-96-904.

(3) The administrative review and fair hearing process set out in WAC 388-96-904 need not be exhausted if a contractor wishes to challenge the legal validity of a statute, rule, contract provision or policy statement.

[Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-901, filed 10/13/82; Order 1262, § 388-96-901, filed 12/30/77.]

**WAC 388-96-902 Recoupment of undisputed overpayments.** The department is authorized to withhold from the nursing home current payment all amounts found by preliminary or final settlement to be overpayments not identified by the nursing home and challenged as overpayments as part of a good-faith administrative

or judicial review. Contested amounts retained by the nursing home pursuant to this section may be subject to recoupment by the department from the nursing home current payment upon completion of judicial and administrative review procedures to the extent the department's position or claims are upheld.

[Statutory Authority: RCW 74.09.120. 82-11-065 (Order 1808), § 388-96-902, filed 5/14/82.]

**WAC 388-96-904 Administrative review process.**

(1) Within thirty days after a contractor is notified of an action or determination it wishes to challenge, it shall request in writing that the 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 388-98 WAC NURSING HOME LICENSURE PROGRAM ADMINISTRATION

#### WAC

388-98-001	Definitions.
388-98-700	Stop placement.
388-98-800	Applicability of civil fines.
388-98-830	Notification.
388-98-850	Imposition and payment of fines.
388-98-870	Separate violations.
388-98-890	Reporting.

**WAC 388-98-001 Definitions.** (1) For purposes of this section, the following words or phrases shall have the following meanings unless the context clearly indicates otherwise:

(2) "Applicant" means an individual, partnership, corporation, or other legal entity which seeks a license to operate a nursing home.

(3) "Deficiency" means a finding by the department written on a statement of deficiency/plan of correction form indicating the part(s) of chapter 248-14 WAC that are not met.

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

(5) "Director" means an individual who has been elected or appointed as director of a corporation.

(6) "Licensed nursing home" means a nursing home licensed pursuant to chapter 18.51 RCW.

(7) "Licensee" means an individual, partnership, corporation, or other legal entity to whom a license to operate a nursing home has been granted or a person subject to such licensure as determined by the department but does not include any employee of such licensee or person unless that employee is an owner of five percent or more of the assets of the licensed entity.

(8) "Licensee's agent" means the designated nursing home administrator, or an individual allowed to perform managerial functions in his/her absence.

(9) "Officer" means an individual who has been appointed an officer of a corporation.

(10) "Owner of five percent or more of the assets of a nursing home" means:

(a) In the case of a sale proprietorship, the owner, or if owned as community property, the owner and his/her spouse; or

(b) In the case of a corporation, the owner of at least five percent of the capital stock of said corporation; or

(c) In the case of any other type of business entity, the owner of a beneficial interest in at least five percent of the capital assets of such entity.

(11) "Partner" means an individual who is in a partnership which owns or operates a nursing home.

(12) "Reasonable time" means a period of time determined by the department and noted in the plan of correction. In determining the length of the period of time for correction of each class of deficiency, the department will consider:

(a) The gravity of the deficiency, including the severity and immediacy of the actual or potential harm to any resident;

(b) The minimum amount of time practicably required to correct.

(13) "Stop placement" means action instituted by the department prohibiting nursing home admissions, readmissions, and transfers of individual patients.

[Statutory Authority: RCW 18.51.070. 83-24-030 (Order 2052), § 388-98-001, filed 12/1/83. Statutory Authority: RCW 18.51.310. 80-08-027 (Order 1515), § 388-98-001, filed 6/25/80.]

**WAC 388-98-700 Stop placement.** (1) Where the department determines that a nursing home no longer substantially meets the requirements of chapter 18.51 or 74.42 RCW or 42 U.S.C. § 1395 x(j) or 42 U.S.C. § 1396 d(c), respectively, or regulations promulgated thereunder, and further determines that the provider's deficiencies do jeopardize the health and safety of its patients, the department shall institute a stop placement on such provider on a date specified by the department: *Provided*, That readmissions from a hospital may be approved when it is determined by the department that such readmission would be in the best interest of the individual patient.

(2) The stop placement shall be terminated when:

(a) The provider states in writing that the deficiencies necessitating the stop placement action have been corrected; and

(b) Department staff confirms in a timely fashion not to exceed fifteen working days whether the deficiencies necessitating the stop placement action have been corrected and that the provider exhibits the capacity to continue to deliver adequate care and service.

(3) A nursing home provider shall have the right to request an informal conference within ten days of notice of the stop placement to present written evidence to refute the deficiencies.

(4) A nursing home provider shall have the right to request a fair hearing within thirty days of notice of the stop placement to appeal a stop placement action.

(a) A request for a fair hearing or an informal conference shall not suspend or delay a stop placement.

(b) A final decision shall be rendered within seven calendar days of the hearing, unless extended by a continuance of the hearing requested by or consented to by the appellant.

(5) The stop placement will remain in effect until there is a final administrative decision or until the conditions of subsection (2) of this section have been satisfied.

[Statutory Authority: RCW 18.51.070, 83-24-030 (Order 2052), § 388-98-700, filed 12/1/83.]

**WAC 388-98-800 Applicability of civil fines.** (1) Civil fines may be imposed in lieu of or in addition to denial, suspension, or revocation of a license.

(2) A fine of up to one thousand dollars may be imposed on the licensee when the department finds that an applicant, licensee or licensee's agent has:

(a) Been the holder of a license issued pursuant to chapter 18.51 RCW which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled; or

(b) Knowingly or with reason to know made a false statement or an omission of a material fact in his application for license or any data attached thereto, or in any matter under investigation by the department; or

(c) Refused to allow representatives or agents of the department to inspect all the books, records, and files required to be maintained on any portion of the premises of the nursing home; or

(d) Wilfully prevented, interfered with, or attempted to impede in any way the work of any duly authorized representative of the department in the lawful enforcement of any provision of chapter 18.51 RCW; or

(e) Wilfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of any of the provisions of chapter 18.51 RCW or the standards, rules, and regulations promulgated thereunder; or

(f) Failed to report patient abuse or neglect in accordance with chapter 70.124 RCW; or

(g) Failed to pay any civil fine assessed by the department pursuant to chapter 18.51 RCW within twenty days after such assessment becomes final.

(3) Monetary fines of a civil nature may be imposed on the licensee of a nursing home as follows:

(a) It shall be a Class A deficiency when there are conditions or practices that present an immediate danger of death or serious physical harm to any patient in the nursing home or substantial probability that death or serious physical harm would result. The condition or practice constituting a Class A deficiency shall be abated or eliminated as soon as possible within twenty-four hours upon notification to the licensee or licensee's agent. The licensee shall be subject to a fine not to exceed one thousand dollars for each Class A deficiency

for which the licensee or licensee's agent has been notified and for which the time for correction has passed.

(b) It shall be a Class B deficiency when there are conditions or practices which have a direct or immediate relationship to the mental or physical health, safety, or security of residents of a nursing home but which presents no imminent danger nor substantial probability of death or serious physical harm to them. A Class B deficiency shall be corrected within a reasonable time determined by the department, but in no event more than sixty days. The licensee shall be subject to a fine not to exceed seven hundred fifty dollars for each Class B deficiency for which the licensee or licensee's agent has been notified and for which the time for correction has passed.

(c) It shall be a Class C deficiency when there are conditions or practices which have a relationship to the health, safety, or security of any patient at a nursing home but which cannot be classified as a Class A or Class B deficiency. A Class C deficiency shall be corrected within a reasonable time determined by the department. The licensee shall be subject to a fine not to exceed five hundred dollars for each Class C deficiency for which the licensee or licensee's agent has been notified and for which the time for correction has passed.

[Statutory Authority: RCW 18.51.310, 80-08-027 (Order 1515), § 388-98-800, filed 6/25/80.]

**WAC 388-98-830 Notification.** (1) Department findings shall be written as a statement of deficiency and presented to the licensee or licensee's agent.

(2) The department shall obtain a plan of correction and reasonable time for correction from the licensee or licensee's agent. The plan of correction shall be obtained during the exit interview. When deficiencies involve facility alterations, physical plant plan development, construction review, or certificate of need, an interim plan of correction that states the steps planned and approximate time schedule is acceptable. Updated plans shall be submitted as agreed to and as progress occurs. The reasonable time for correction shall be limited by the classification of deficiency.

(3) Unacceptable plans for correction or times for correction will be returned by personal service or certified mail to the licensee or licensee's agent, with letter of explanation, for revision and resubmission.

(a) The licensee or licensee's agent shall be allowed up to eight hours to submit an acceptable plan of correction and reasonable time for correction for Class A deficiencies.

(b) The licensee or licensee's agent shall be allowed up to five working days to submit an acceptable plan of correction and reasonable time for correction for Class B deficiencies.

(c) The licensee or licensee's agent shall be allowed up to ten working days to submit an acceptable plan of correction and reasonable time for correction for Class C deficiencies.

(4) When the licensee or licensee's agent corrects a deficiency as determined by the department within the reasonable time established, a fine will not be imposed.

(5) Upon licensee's or licensee's agent's petition, the department shall determine whether or not to grant a request for an extended correction time. Such a petition must be received by the department at the earliest possible date prior to the expiration of the correction time originally approved. The burden of proof is on the licensee or licensee's agent to show good cause for not being able to comply with the original correction time.

[Statutory Authority: RCW 18.51.310. 80-08-027 (Order 1515), § 388-98-830, filed 6/25/80.]

**WAC 388-98-850 Imposition and payment of fines.**

(1) If correction has not been completed and a decision not to fine the licensee has been made, that decision shall be communicated to the licensee or licensee's agent and shall be documented in the licensing file.

(2) When the corrective action taken by the licensee or licensee's agent fails to fully correct the deficiency, the degree of progress in correcting the deficiency will be considered in determining whether or not a fine will be imposed.

(3) Each fine imposed shall be approved by the department.

(4) Written notice of imposition shall be provided by personal service or certified mail to the individual or entity to be fined.

(5) The amount of the fine shall be based on any or all of the following:

- (a) The severity of the deficiency;
- (b) The prevalence of the deficiency;
- (c) The licensee's or licensee's agent's efforts to correct the deficiency;
- (d) The licensee's history of noncompliance;
- (e) The cost to the department.

(6) The written notice is an order that shall become final twenty days after its service upon the licensee or licensee's agent unless the licensee or licensee's agent requests a hearing. If no hearing is requested the fine becomes due on the thirtieth day after notice of imposition.

(7) All hearings shall be in accordance with the administrative procedures contained in chapter 388-08 WAC.

(8) If a hearing is requested, any written order arising therefrom imposing a fine shall become final thirty days after its entry, unless such order is stayed in accordance with the provisions of administrative procedures contained in chapter 388-08 WAC.

(9) In case of nonpayment of a fine, the department may withhold an amount equal to the fine from the licensee's administration and operations payment, or,

(10) The department may suspend the license of any licensee who fails to pay a fine imposed under this chapter thirty days after the date of order imposing the fine. Such license suspension shall continue until the fine is paid.

[Statutory Authority: RCW 18.51.310. 80-08-027 (Order 1515), § 388-98-850, filed 6/25/80.]

**WAC 388-98-870 Separate violations.** Each separate finding of a violation of a statute, rule or regulation shall constitute a separate violation.

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[Statutory Authority: RCW 18.51.310. 80-08-027 (Order 1515), § 388-98-870, filed 6/25/80.]

**WAC 388-98-890 Reporting.** All civil fines assessed against a nursing home which relate to the activities and responsibilities of a licensed nursing home administrator as defined in WAC 248-14-235 shall be reported to the professional licensing division, business and professions administration. The report shall include the name of the person, name of the facility, amount of fine, and date of fine.

[Statutory Authority: RCW 18.51.310. 80-08-027 (Order 1515), § 388-98-890, filed 6/25/80.]

**Chapter 388-99 WAC**

**LIMITED CASUALTY PROGRAM—MEDICALLY NEEDY**

**WAC**

388-99-005	Limited casualty program—Medically needy.
388-99-010	Persons eligible for medically needy assistance.
388-99-011	Continuation of eligibility for pregnant women.
388-99-015	Eligibility—General.
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.
388-99-050	Limited casualty program—Medically needy—Application process.
388-99-055	Certification.
388-99-060	Scope of care for medically needy.

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

388-99-045	Medically needy—Eligibility determination—Institutional. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-99-045, filed 12/3/81; 81-16-032 (Order 1684), § 388-99-045, filed 7/29/81.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090. Later promulgation, see WAC 388-95-400.
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**WAC 388-99-005 Limited casualty program—Medically needy.** (1) The department of social and health services provides a limited casualty program of medical care, administered through the division of medical assistance, designed to meet the health care needs of persons not categorically needy for medical assistance.

(2) A medically needy individual is defined as a person who is aged, blind, or disabled, or families and children whose income and/or resources are above the limits prescribed for the categorically needy but are within limits set for the medically needy program.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-99-005, filed 12/3/81; 81-16-032 (Order 1684), § 388-99-005, filed 7/29/81.]

**WAC 388-99-010 Persons eligible for medically needy assistance.** 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 [federal] benefit [cap] [amount payable under section 1611 (b)(1) of the Social Security Act to an individual in his/her own home who has no income or resources (SSI 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 income, resource and/or deprivation requirements. For this subsection:

(a) The period of eligibility includes the six weeks following delivery to cover the post partum care; and

(b) The number in the household shall be increased by one before being compared to the medically needy income level in WAC 388-99-020; and

(c) The number in the household shall be increased by one before being compared to the resource level in WAC 388-99-035.

[Statutory Authority: RCW 74.08.090, 86-11-025 (Order 2378), § 388-99-010, filed 5/14/86; 86-08-005 (Order 2351), § 388-99-010, filed 3/20/86; 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.]

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 388-99-011 Continuation of eligibility for pregnant women.** A woman who was eligible for and received Medicaid on the last day of pregnancy shall continue to be eligible for Medicaid-covered postpartum and pregnancy-related services for sixty days following that date.

[Statutory Authority: RCW 74.08.090, 86-21-002 (Order 2430), § 388-99-011, filed 10/2/86.]

(1986 Ed.)

**WAC 388-99-015 Eligibility--General.** All applicants for the limited casualty program--medically needy are required to meet the requirements of WAC 388-83-010 through 388-83-025.

[Statutory Authority: RCW 74.08.090, 81-16-032 (Order 1684), § 388-99-015, filed 7/29/81.]

**WAC 388-99-020 Eligibility determination--Medically needy in own home.** (1) The medically needy income level (MNIL) shall be:

(a) One person	\$ 364
(b) Two persons	\$ 526
(c) Three persons	\$ 552
(d) Four persons	\$ 578
(e) Five persons	\$ 666
(f) Six persons	\$ 756
(g) Seven persons	\$ 873
(h) Eight persons	\$ 966
(i) Nine persons	\$ 1,061
(j) Ten persons and above	\$ 1,153

(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, 86-07-003 (Order 2346), § 388-99-020, filed 3/6/86; 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—Spendedown.** (1) On initial or subsequent applications previously incurred medical expenses are deducted from excess countable income subject to the following restrictions.

(a) The medical expense must be a current liability of the individual or financially responsible relative in the same household. See WAC 388-92-025(4).

(b) The medical expenses have not been used at any other time to reduce excess countable income on a medical application which resulted in eligibility.

(c) The portion of the medical expense paid or covered by third-party liability can not be considered toward spenddown.

(i) When a health insurer has failed to send either payment or notice of the portion of a medical services bill covered within forty-five days of the date of service or thirty days from the last day of the base period, whichever is sooner, the department shall disregard the possible payment as a resource and allow the entire expense for spenddown.

(ii) When Medicare is the only insurance available and the applicant is hospitalized, the department shall take the following action:

(A) If there has not been a previous hospital stay within sixty days, and the client still owes the bill, allow the Medicare deductible toward the spenddown.

(B) If there has been a previous hospital stay within sixty days, do not allow the hospital deductible, and follow the procedure for health insurance in (c)(i) of this subsection.

(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:

(a) For expenses incurred prior to the certification date the conditions in subsection (1) of this section are met.

(b) For medical care or supplies received and paid for, on or after the certification date and prior to receiving coupons, the conditions in subsections (1)(b) through (d) 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. 86-17-022 (Order 2409), § 388-99-030, filed 8/12/86; 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 388-99-050 Limited casualty program--Medically needy--Application process.** (1) Applications will be disposed of according to WAC 388-84-105 and 388-84-110.

(2) The effective date shall be as in chapter 388-84 WAC, except that:

(a) The effective date for LCP-MN in own home shall be the date spenddown, if any, has been met, and

(b) Denials based upon failure to meet spenddown shall not be made until at least thirty days after the end of the base period.

(3) Following a spenddown denial the CSO will re-open and process the case when:

(a) The conditions in WAC 388-84-110 are met; or

(b) An applicant, more than thirty days after the denial:

(i) Presents bills sufficient to meet spenddown and shows reasonable cause for the delay in providing the bills; and

(ii) Timely requests a fair hearing to appeal the denial.

[Statutory Authority: RCW 74.08.090. 86-17-022 (Order 2409), § 388-99-050, filed 8/12/86; 81-16-032 (Order 1684), § 388-99-050, filed 7/29/81.]

**WAC 388-99-055 Certification.** (1) Applicants in their own homes shall have a choice of a three-month or a six-month certification period. Once certified the applicant may not change the chosen certification period.

(2) An applicant 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.
388-100-015	Allocation of excess income and nonexempted resource.
388-100-020	Limited casualty program--Medically indigent--Application process.
388-100-025	Certification.
388-100-030	Deductible.
388-100-035	Scope of care for medically indigent.

**WAC 388-100-001 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;

(b) Meets the financial eligibility as defined in chapter 388-100 WAC; and

(c) Is not an inmate of a city or county jail, federal or state prison or of a juvenile detention facility.

[Statutory Authority: RCW 74.08.090. 86-09-007 (Order 2364), § 388-100-005, filed 4/4/86; 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.

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(e) For a pregnant woman who does not meet the AFDC income, resource and/or deprivation requirements:

(i) The number in the household shall be increased by one before being compared to the income requirements of (b) of this subsection; and

(ii) The number in the household shall be increased by one before being compared to the resource requirements of (c) of this subsection.

(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. 86-11-025 (Order 2378), § 388-100-010, filed 5/14/86; 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 388-100-015 Allocation of excess income and nonexempted resource.** (1) All excess income and non-exempted resources shall be allocated toward the cost of medical care.

(2) On initial or subsequent applications all previously incurred medical expenses are deducted from excess countable income as described in WAC 388-99-030. These expenses cannot have been used toward a previous spenddown or deductible requirement.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-100-015, filed 12/3/81; 81-16-032 (Order 1684), § 388-100-015, filed 7/29/81.]

**WAC 388-100-020 Limited casualty program--Medically indigent--Application process.** (1) Applications will be disposed of according to WAC 388-84-105 and 388-84-110.

(2) The effective date shall be the date spenddown, if any, has been met.

(3) Medical care received within seven working days prior to the date of application shall be provided when:

(a) The condition was acute and emergent, and

(b) The individual was otherwise eligible.

[Statutory Authority: RCW 74.08.090. 81-16-032 (Order 1684), § 388-100-020, filed 7/29/81.]

**WAC 388-100-025 Certification.** (1) 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 388-100-030 Deductible.** A deductible of five hundred dollars per family over a twelve-month period is required.

(1) Only family members that meet the eligibility requirements in WAC 388-100-010 (1) through (4) can accumulate expenses against the deductible.

(2) The accumulation of the deductible may begin up to seven working days prior to the date of application. The department may waive the seven-day rule if a person fails to apply for medical reasons or other good cause.

(3) Only medical services as specified in WAC 388-100-035 are countable toward meeting the deductible requirement.

(4) The expenses incurred against the deductible are the liability of the applicant/recipient.

(5) If the deductible has not been satisfied during the three-month base period beginning with the month of application, the remaining amount is applied to any subsequent applications within twelve months of the initial application.

[Statutory Authority: RCW 74.08.090, 83-17-071 (Order 2009), § 388-100-030, filed 8/19/83; 82-20-039 (Order 1880), § 388-100-030, filed 10/1/82; 82-13-079 (Order 1828), § 388-100-030, filed 6/21/82; 81-16-032 (Order 1684), § 388-100-030, filed 7/29/81.]

**WAC 388-100-035 Scope of care for medically indigent.** (1) The medical coverage under the limited casualty program--medically indigent shall be available to an eligible individual for treatment of acute and emergent conditions only. 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.]

### Chapter 388-320 WAC

### PUBLIC RECORDS--DISCLOSURE

#### WAC

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

388-320-055	Operations and procedure--Program division responsibilities. [Order 899, § 388-320-055, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
388-320-060	Operations and procedure--Program division operation. [Order 899, § 388-320-060, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81.

- Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-320-070 Operations and procedure—Administrative divisions. [Order 899, § 388-320-070, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-320-093 Statements of policy—Practice manuals. [Order 899, § 388-320-093, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-320-094 Statements of policy—State plans. [Order 899, § 388-320-094, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-320-095 Statements of policy—Other. [Order 899, § 388-320-095, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-320-120 Office hours. [Order 899, § 388-320-120, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-320-150 Exemptions. [Order 899, § 388-320-150, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-320-155 Denial of request. [Order 899, § 388-320-155, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-320-160 Review of denial. [Order 899, § 388-320-160, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-320-190 Communications and submissions relating to public records. [Order 899, § 388-320-190, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-320-200 Adoption of form. [Order 899, § 388-320-200, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.

**WAC 388-320-010 Purpose.** The purpose of this chapter shall be to ensure compliance by the department of social and health services with the provisions of the Public Records Disclosure Act, RCW 42.17.250 through 42.17.340.

This chapter is organized as follows:

- (1) WAC 388-320-030 through 388-320-092 provide information relative to the overall organizational structure of the department, as required by RCW 42.17.250.
- (2) The remainder of the chapter, commencing with WAC 388-320-100, provides information relating to disclosure of public records, as required by RCW 42.17.260 through 42.17.340. These sections apply to all offices of the department.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-010, filed 2/19/81; Order 899, § 388-320-010, filed 1/25/74.]

**WAC 388-320-020 Definitions.** (1) "Public records" include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by the department regardless of physical form or characteristics.

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(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

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

(4) "Client" means any person or organization about whom the department has a record.

(5) "Disclosure" means inspection and/or copying.

(6) "Denial of disclosure" denotes any exempting from disclosure of any public record.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-020, filed 2/19/81; Order 899, § 388-320-020, filed 1/25/74.]

**WAC 388-320-030 Establishment of department.**

(1) The department of social and health services was created effective July 1, 1970 under the authority of chapter 43.20A RCW. The former departments of health, public assistance and institutions, and the former veterans rehabilitation council and division of vocational rehabilitation of the coordinating council on occupational education were abolished and the department was assigned substantially all their powers, duties and functions.

(2) The department was established to integrate and coordinate most of those activities of the state of Washington which involve provision of care for individuals who, because of economic, social, or health conditions, require financial assistance, institutional care, or rehabilitative or other social or health services.

(3) The state administrative office of the department is located in Olympia. Regional and local units are located throughout the state.

[Order 899, § 388-320-030, filed 1/25/74.]

**WAC 388-320-035 Programs operated by department.** The department operates the following programs:

- (1) Adult correction and rehabilitation
- (2) Juvenile rehabilitation
- (3) Mental health
- (4) Developmental disabilities
- (5) Veterans' services
- (6) Income maintenance
- (7) Community social services
- (8) Medical assistance
- (9) Public health
- (10) Vocational rehabilitation.

[Order 899, § 388-320-035, filed 1/25/74.]

**WAC 388-320-040 Operations and procedure—Organization.** (1) The department's basic organizational structure is built around major functions with different organizations having responsibility for aspects of the various departmental programs. No single organization

has sole responsibility for all aspects of any one program. Responsibility for program development is assigned to central office staff and for operation to staff in the field. Supporting services are provided to all staff.

(2) The department has three basic functional components:

- (a) Office of the secretary
- (b) Program development and operation
- (c) Management services.

[Order 899, § 388-320-040, filed 1/25/74.]

**WAC 388-320-045 Operations and procedure--Office of secretary.** The secretary of the department is appointed by the governor with the consent of the senate and serves at the pleasure of the governor. Subject to statutory limitations the secretary has complete charge of the department. He may delegate any power or duty vested in his office to any assistant or subordinate but he remains responsible for the official acts of the officers and employees.

[Order 899, § 388-320-045, filed 1/25/74.]

**WAC 388-320-050 Operations and procedure--Program divisions.** (1) The secretary has established four divisions within the department to which he has assigned primary responsibility for the development and operation of each of the programs enumerated in WAC 388-320-035 as follows:

(a) The division of adult corrections has been assigned responsibility for the adult correction and rehabilitation program.

(b) The division of vocational rehabilitation services has been assigned responsibility for the vocational rehabilitation program.

(c) The division of health services has been assigned responsibility for the medical assistance and public health programs.

(d) The division of community services has been assigned responsibility for the juvenile rehabilitation, mental health, developmental disabilities, veterans' services, income maintenance, and community social services programs.

(2) Each of these divisions is headed by a director.

[Order 899, § 388-320-050, filed 1/25/74.]

**WAC 388-320-080 Operations and procedure--Other organizational units.** The secretary has created a number of other organizational units with responsibilities not attributable to a single program. These units are directly responsible to the secretary or to his deputy and administer the following functions:

- (1) Citizen participation coordination.
- (2) Public affairs.
- (3) Minority affairs.
- (4) Legislative liaison.
- (5) Special investigators.
- (6) Attorney general's services.

[Order 899, § 388-320-080, filed 1/25/74.]

(1986 Ed.)

**WAC 388-320-090 Operations and procedure--Rules adoption and publication.** Substantive and procedural rules of general applicability adopted by the department as authorized by law or adopted by the Washington state board of health and enforced by the department as authorized by law appear at the following WAC titles:

- (1) Title 248—Health
- (2) Title 275—Institutions, mental health, and mental retardation
- (3) Title 388—Economic and social services
- (4) Title 402—Radiation control agency
- (5) Title 490—Vocational rehabilitation.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-090, filed 2/19/81; Order 899, § 388-320-090, filed 1/25/74.]

**WAC 388-320-092 Statements of policy.** Statements of general policy or interpretations of general applicability, including procedural manuals maintained for department staff use, shall be available for public inspections.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-092, filed 2/19/81; Order 899, § 388-320-092, filed 1/25/74.]

**WAC 388-320-100 Public records available.** (1) All public records of the department are available for disclosure except as otherwise provided by these rules.

(2) Requests for any identifiable public record may be initiated at any office of the department, except that requests for research purposes shall be made directly to the human research review section.

(3) The department shall at all times take the most timely possible action on requests for disclosure; the department shall respond in writing within ten working days of receipt of the request for disclosure, and its failure to do so shall entitle the person seeking disclosure to petition the public records officer pursuant to WAC 388-320-210.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-100, filed 2/19/81; Order 899, § 388-320-100, filed 1/25/74.]

**WAC 388-320-110 Public records officer.** The department shall designate a public records officer, located in the state administrative office, who shall be responsible for implementing the department's rules regarding disclosure of public records, coordination of staff in this regard, and generally insuring compliance by the staff with public records disclosure requirements.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-110, filed 2/19/81; Order 899, § 388-320-110, filed 1/25/74.]

**WAC 388-320-115 Public disclosure coordinator.** Each departmental administrative unit—for example, each CSO or institution—shall designate from among its employees at least one public disclosure coordinator, who shall:

(1) Have responsibility to respond to written requests for disclosure of the department's nonexempt public records located in that office; and

(2) Refer the person requesting disclosure to any other office where the record is located, and assist further in the disclosure process; and

(3) Verify, if necessary, the identity of any person requesting information.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-115, filed 2/19/81; Order 899, § 388-320-115, filed 1/25/74.]

**WAC 388-320-130 Request for public records.** (1) A request for disclosure of a public record may be oral or written. Such a request need merely identify with reasonable certainty the record sought to be disclosed.

(2) A request for disclosure shall be made during customary business hours.

(3) A request for disclosure shall not be made for commercial or political purposes.

(4) If the public record contains material exempt from disclosure pursuant to law, including those laws cited in WAC 388-320-220, the department must provide the person requesting disclosure with a written explanation for the nondisclosure, pursuant to WAC 388-320-205.

(5) Any person continuing to seek disclosure, after having received a written explanation for nondisclosure pursuant to WAC 388-320-205, may request a review under the provisions of WAC 388-320-210.

(6) When a person's identity is relevant to an exemption, that person may be required to provide personal identification.

(7) Nothing in this section or elsewhere in this chapter shall be construed to require the department to compile statistics or other information from material contained in public records, where doing so would unduly interfere with other essential functions of the department and is not required for litigation by rules of pretrial discovery.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-130, filed 2/19/81; Order 899, § 388-320-130, filed 1/25/74.]

**WAC 388-320-135 Disclosure to client's representative.** (1) If a client requests disclosure to a representative, that request must be accompanied by a written release signed by the client, except that, as an accommodation to the client and if the legislator or attorney representing the client can provide assurance that the client has authorized disclosure, the client's record may be briefly discussed with that legislator or attorney so long as there is neither physical inspection nor copying of client records by that representative. A written release must include:

(a) The identity of the person(s) or organization(s) to whom disclosure is to be made;

(b) An identification of the record, or portion thereof, to be disclosed;

(c) A statement of when the authorization for disclosure expires.

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(2) Disclosures of information to a representative shall be made to the same extent as to the client.

(3) The legal guardian of a client has any and all rights accorded to a client by this section.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-135, filed 2/19/81.]

**WAC 388-320-140 Fees—Inspection and copying.**

(1) No fee shall be charged for the inspection of public records.

(2) The department shall collect the following fees to reimburse itself for actual costs incident to providing copies of public records:

(a) In the instance of manuals, and manual revisions to holders of manuals, the cost shall be that of printing and mailing;

(b) Cost of copying of blueprints and like materials involving an extraordinary expense shall be fully reimbursed to the department;

(c) Otherwise, the department shall charge a fee of ten cents per page, plus postage if any, provided that:

(i) The first ten pages shall be free;

(ii) Additionally, any materials to be entered by the department as an exhibit in a hearing or trial shall be free.

(iii) Additionally, where a hearing or trial is being contested, the public disclosure coordinator shall authorize additional free copying of materials demonstrated to be relevant, where the client is indigent.

(3) Nothing contained in this section shall preclude the department from agreeing to exchange or provide copies of manuals or other public records with other state or federal agencies, whenever doing so is in the best interest of the department.

(4) The secretary of the department or his designee is authorized to waive any of the foregoing copying costs.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-140, filed 2/19/81; Order 899, § 388-320-140, filed 1/25/74.]

**WAC 388-320-170 Protection of public records.** Public records shall be disclosed only in the presence of a public disclosure coordinator or his/her designee, who shall withdraw the records if the person requesting disclosure acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the department. This section shall not be construed to prevent the department from accommodating a client by use of the mails in the disclosure process.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-170, filed 2/19/81; Order 899, § 388-320-170, filed 1/25/74.]

**WAC 388-320-180 Records index.** (1) The department finds that it would be unduly burdensome and would interfere with agency operations to maintain an index of records because of the complexity and diversity of its operations and the resulting volume of manuals, correspondence, reports, surveys, staff studies and other materials.

(2) The department will make available for public disclosure all indices which may at a future time be developed for agency use.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-180, filed 2/19/81; Order 899, § 388-320-180, filed 1/25/74.]

**WAC 388-320-205 Disclosure procedure.** (1) The public disclosure coordinator shall review file materials prior to disclosure.

(2) If the file does not contain materials exempt from disclosure, the public disclosure coordinator shall ensure full disclosure.

(3) If the file does contain materials exempt from disclosure, the public disclosure coordinator shall deny disclosure of those exempt portions of the file, and shall, at the time of the denial, in writing, clearly specify the reasons for the denial of disclosure, including a statement of the specific exemptions or reasons authorizing the withholding of the record and a brief explanation of how the exemption or reason applies. The remaining, nonexempt materials shall be fully disclosed.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-205, filed 2/19/81.]

**WAC 388-320-210 Remedy for review of denial of disclosure.** (1) If the person requesting disclosure disagrees with the decision of a public disclosure coordinator denying disclosure of a public record, this person may at any time petition the department's public records officer for review of the decision denying disclosure. The form used by the public disclosure coordinator to deny disclosure of a public record shall clearly indicate this right of review.

(2) The public records officer shall review decisions denying disclosure in the most prompt fashion possible, and such review shall be deemed completed at the end of the second business day following receipt by the department of the petition for review. This shall constitute final agency action for the purposes of judicial review, pursuant to RCW 42.17.320.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-210, filed 2/19/81.]

**WAC 388-320-220 Exemptions to public records disclosure.** Nondisclosable records are those exempted by law, including:

(1) Personal information in any files concerning a client to the extent required by RCW 42.17.310 (1)(a) and/or 74.04.060, including departmental evaluations of information received from providers of services, is exempt from disclosure to the general public. However, disclosure may be made to the client or the client's representative, except as otherwise prohibited by these rules.

(2) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss, as required by RCW 42.17.310 (1)(h).

(3) Data (including information revealing the identity of persons who file complaints, if disclosure would endanger any person's life, physical safety or property) contained in intelligence, investigative, and other related files compiled by investigative, law enforcement or penology agencies, and state agencies vested with the responsibility to discipline members of any profession: *Provided*, That pursuant to the rules set forth in chapter 388-08 WAC, the hearings examiner may make determinations in the following program areas only: Public assistance and/or food stamp programs as to whether the circumstances of a particular case, when weighing the public interest in protecting the flow of information against the individual's right to prepare his or her defense, necessitates nondisclosure of particular intelligence or investigative information: *Provided further*, That nothing in this regulation shall be deemed to deny adequate opportunity to the appellant or his or her representative, to examine any intelligence or investigative information to be used by the agency at the hearing. As used in these regulations, intelligence and investigative information includes the following:

(a) Allegations or complaints of suspected criminal activity;

(b) Identification of informants, complainants, any person whose life or limb may be endangered by such disclosure, and potential witnesses regarding alleged criminal activity;

(c) Identification of and reports concerning criminal suspects other than the person who is the subject of the fair hearing;

(d) Assessments, reports, notes or voice recordings of law enforcement officials or officials of a criminal justice agency, as defined in RCW 10.97.030, concerning the person who is the subject of the fair hearing, informants or potential witnesses; and

(e) Criminal history information relating to persons or organizations other than the person or persons who are the subject of the fair hearing.

(4) Vocational rehabilitation records to the extent required by 45 C.F.R. 1361.47 and WAC 490-500-550.

(5) Certain juvenile justice or juvenile care records to the extent required by chapter 13.50 RCW.

(6) Records of the state registrar of vital statistics to the extent required by RCW 70.58.095.

(7) Alcohol and drug abuse patient records to the extent required by 42 C.F.R. Chapter 1 Part II or other federal law or regulation.

(8) Office of support enforcement information regarding location of parents to the extent required by RCW 74.20.280.

(9) Adoption and voluntary termination of parent-child relationship records to the extent required by chapter 26.32 RCW, and financial information received from adoptive parents to the extent required by RCW 74.13.121.

(10) Mental illness and inebriacy records to the extent required by RCW 71.05.390.

(11) Personal information in files maintained for an employee of the department to the extent required by RCW 42.17.310 (1)(b).



(12) Deliberative material, as opposed to facts upon which a decision is based, contained in preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended, except that a specific record shall be disclosable when publicly cited by the department in connection with any action to the extent required by RCW 42.17.310 (1)(i).

(13) Records relevant to a controversy to which the department is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the department and the office of the attorney general privileged under RCW 5.60.060(2).

(14) The central registry of reported cases of child abuse or abuse of developmentally disabled persons to the extent required by RCW 26.44.070.

(15) Records of patients and inmates of state institutions to the extent required by RCW 72.01.290.

(16) Records concerning applicants or recipients of support enforcement activities, as required by 45 C.F.R. 302.18.

(17) Nursing home records, to the extent required by RCW 18.51.190 and 70.124.010.

(18) Competitive contract procurement instruments, such as a request for proposals or an invitation for bids, prior to the release to potential bidders; proposals and bids received in response to competitive contract procurement instruments until either the public opening of bids or, for proposals, the contractor and the department have signed the contract, pursuant to RCW 43.20A.050.

[Statutory Authority: RCW 34.04.020. 83-03-021 (Order 1938), § 388-320-220, filed 1/13/83. Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-220, filed 2/19/81.]

#### **WAC 388-320-225 Qualifications on nondisclosure.**

(1) To the extent that nondisclosable information can be deleted from the specific records sought, the remainder of the records shall be disclosable.

(2) No exemptions shall be construed to require nondisclosure of statistical information not descriptive of identifiable persons, as required by RCW 42.17.310(2).

(3) Inspection and copying of any specific records otherwise nondisclosable is permissible pursuant to an order of the superior court enforcing a subpoena in accordance with the provisions of RCW 42.17.310(3), or an order of the office of hearings enforcing a subpoena.

(4) Upon written request of a person who has been properly identified as an officer of the law with a felony arrest warrant or a properly identified United States immigration official with a warrant for an illegal alien the department shall disclose to such officer or official the current address and location of the person described in the warrant, as required by RCW 74.04.062.

(5) Any person may inquire of the department whether a named individual is a recipient of welfare assistance in accordance with RCW 74.04.060.

(6) Any records of the department may be made accessible for research purposes provided that the research

complies with the guidelines published by the department in response to 45 C.F.R. 46 or other applicable state and federal law.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-225, filed 2/19/81.]

#### **WAC 388-320-230 Visitation rights of parents. (1)**

Upon written request of a parent who has been awarded visitation rights or legal custody, the public disclosure coordinator shall disclose to such parent the current address of his or her natural or adoptive child(ren) if they are currently receiving financial aid from the department as shown by the warrant roll, or receiving nonassistance support enforcement services. Information supplied to a parent by the department shall be used only for purposes directly related to the visitation or custody provisions of the court order. No parent shall disclose such information to any other person except for the purpose of enforcing visitation or custody provisions of the court order.

(2) A request for an address shall be accompanied by a copy of the appropriate court order awarding visitation or custody, and the requesting parent shall state in his or her written request that the accompanying order has not been subsequently modified or amended.

(3) Information shall be released only upon satisfactory evidence of the identity of the party, but this provision is waived where the request is made by an attorney at law representing the parent.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-230, filed 2/19/81.]

**WAC 388-320-235 Disclosure for program purposes. (1)** For purposes directly connected with the administration of department programs, information shall be disclosed between different offices of the department, unless prohibited by 45 C.F.R. 205.50 or other law.

(2) For purposes directly connected with the administration of department programs, information may be disclosed by the department to outside agencies, unless disclosure is prohibited by law.

(3) Outside agencies receiving information pursuant to (2) of this section shall be thereby subject to the same standards of disclosure as are required of the department.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-235, filed 2/19/81.]

**WAC 388-320-240 Disclosure for other than program purposes.** To the extent not otherwise prohibited or authorized by law, inquiries from agencies outside the department will be honored only if written and only if the client's authorization is included with the request.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-240, filed 2/19/81.]