

than twelve months of the TIP-year or less than full time during the twelve months of the project shall receive a pro rata share based upon the fraction of the TIP-year worked.

(3) Units not demonstrating cost efficiencies may receive special recognition of merit in the form and manner determined by the board.

[Statutory Authority: Chapter 41.60 RCW. 88-15-033 (Order 88-1), § 383-07-120, filed 7/14/88.]

WAC 383-07-130 Award authorization and payment procedures. Following approval of a teamwork incentive award by the productivity board, the program administrator shall submit an award invoice to the agency authorizing payment of awards and transfer of fees in accordance with RCW 41.60.120.

(1) The award authorization invoice shall include:

(a) The total amount of savings;

(b) The unit award based upon the percentage specified by RCW 41.60.120;

(c) A list of employees and the amount of each individual's award share; and

(d) The amount to be transferred to the department of personnel service fund in accordance with RCW 41.60.120.

(2) The award authorization invoice shall be sent to the agency's TIP liaison for processing payments of awards and fees. A copy of the authorization shall be forwarded to the unit supervisor, the agency accounts officer for the department of personnel, and the agency accounts officer for the board.

(3) The award authorization invoice shall be sent within five working days following board action.

(4) The agency shall arrange for payment of awards in a timely manner.

[Statutory Authority: Chapter 41.60 RCW. 88-15-033 (Order 88-1), § 383-07-130, filed 7/14/88.]

Title 388 WAC

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

Chapters

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Chapter 388-11 WAC

CHILD SUPPORT--OBLIGATIONS

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-11-050	Failure to make request for hearing. [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.] Repealed by 88-18-031 (Order 2689), filed 8/30/88. Statutory Authority: 1988 c 275.
388-11-070	Continuance of cases. [Order 1054, § 388-11-070, filed 9/25/75; Order 875, § 388-11-070, filed 11/16/73.] Repealed by 88-18-031 (Order 2689), filed 8/30/88. Statutory Authority: 1988 c 275.
388-11-080	Requests for admission. [Order 1054, § 388-11-080, filed 9/25/75; Order 875, § 388-11-080, filed 11/16/73.] Repealed by 88-18-031 (Order 2689), filed 8/30/88. Statutory Authority: 1988 c 275.
388-11-090	Hearings examiner. [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.] Repealed by 88-18-031 (Order 2689), filed 8/30/88. Statutory Authority: 1988 c 275.
388-11-130	Decision and order after hearing. [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.] Repealed by 88-18-031 (Order 2689), filed 8/30/88. Statutory Authority: 1988 c 275.
388-11-190	Scale of minimum contributions. [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.] Repealed by 88-18-031 (Order 2689), filed 8/30/88. Statutory Authority: 1988 c 275.

WAC 388-11-010 Statutory basis. RCW 74.20A-.055 is the administrative process for establishing support obligations when there is no superior court order and the office of support enforcement has served a notice and finding of financial responsibility on the responsible parent. The notice and finding of financial responsibility may be served only for a support debt or current support obligation established or to be established under RCW 74.20A.057, specifically including cases eligible for nonassistance support enforcement services under WAC 388-14-302.

[Statutory Authority: 1988 c 275, 88-18-031 (Order 2689), § 388-11-010, filed 8/30/88. 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 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;

(iii) Automated periodic searches for identification information recorded by other state agencies, federal agencies, credit bureaus, or other electronic record keeping agencies or entities.

(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, the IV-D agency of another state, or the Internal Revenue Service for specific legal or collection action.

(3) "The date the state assumes responsibility for the support of a dependent child on whose behalf support is sought" shall mean the date payment of an AFDC-R, AFDC-E, AFDC-FC, a state only foster care, or a family independence program grant is authorized. For purposes of this chapter, the state shall continue to be responsible for the support of a dependent child until public assistance or family independence program payments terminate, or support enforcement services terminate, whichever occurs 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) "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.

(7) "Superior court order" means any judgment, decree, or order of a Washington state superior court or another state's court of comparable jurisdiction establishing a support obligation and ordering payment thereon of a set or determinable amount. An order that fails to expressly require payment of support by a responsible parent or that fails to specifically relieve a responsible parent of a support obligation is not a superior court order. For purposes of this chapter, an order entered by any state under the Uniform Reciprocal Enforcement of Support Act (URESAs) is not a superior court order.

(8) "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 money to satisfy the support obligation. Such administrative order shall include an agreed settlement or consent order entered under WAC 388-11-150 or a notice and finding of financial responsibility that has become final by operation of law.

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

(10) "Responsible parent" means the natural parent, adoptive parent, or responsible stepparent from whom the department seeks support for a dependent child.

(11) "Responsible stepparent" means any spouse, under RCW 26.16.205, who lives or has lived in a family unit with a person who is either a mother, father, or adoptive parent, and that person's dependent child or children; and such status shall continue until the relationship is terminated by death or dissolution of marriage.

(12) "Support money" means any money or in-kind providings paid to satisfy a support obligation whether denominated as child support, spouse support, alimony, maintenance, or any other such money 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.

(13) "Current" and/or "future" support means support money paid to satisfy the support obligation for the present month as opposed to satisfaction of a support debt.

(14) "Support debt" means any delinquent amount of support money 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.

(15) "Arrears," "delinquency," "past support," shall all mean the amount owed for a period of time prior to the instant month.

(16) "Good cause" means there is substantial reason or legal justification for delay, including a showing of those grounds enumerated in Civil Rule 60.

(17) "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.

(18) 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.

(19) "State" means any state or political subdivision, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(20) "Residential parent" means the parent with whom the child resides a majority of the time, or who is designated as, or deemed to be, the custodian of the child under RCW 26.09.285.

(21) "Agreed settlement" means the informal disposition of a contested case by written agreement between a responsible parent and the office of support enforcement which establishes the existence of a support obligation and orders payment thereon. Such agreement shall be effective without the approval of an administrative law judge.

(22) "Consent order" means the informal disposition of a contested case by written agreement between a responsible parent and the office of support enforcement which establishes the existence of a support obligation and orders payment thereon. Such agreement shall require the approval of an administrative law judge to be effective.

(23) "Extraordinary medical expenses" means all medical costs of a dependent child, not covered by insurance, which exceed a total of two hundred dollars for the year.

(24) "Medical costs" means doctor and hospital bills, prescription costs, and dental costs including orthodontia.

(25) "Medical support" means medical costs incurred for and/or health insurance coverage for the benefit of a dependent child.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-011, filed 8/30/88. 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. (1) Under RCW 74.20.101, after the office of support enforcement serves a notice and finding of financial responsibility on the responsible parent, satisfaction of the current and future support obligation may be obtained only by cash, check, or money order payments through the office of support enforcement or payment of health insurance premiums.

(2) The office of support enforcement shall allow credit against the responsible parent's support debt for family necessities provided directly to the caretaker/custodian, or children, or provided through vendors or third parties only if:

(a) The items are provided prior to service of the notice and finding of financial responsibility on the responsible parent; and

(b) The responsible parent proves the items, when provided, were intended to satisfy the responsible parent's support obligation; and

(c) The items are food, clothing, shelter, or medical attendance directly related to the care, support, and maintenance of the children.

(3) After service of the notice and finding of financial responsibility, a parent may obtain credit against their current support obligation only if:

(a) The department determines there is no prejudice to the custodial parent or other person or agency entitled to receive the support payments, or to the children, and that there are special circumstances of an equitable nature which justify credit for such payments; or

(b) A court of competent jurisdiction determines credit should be granted after a hearing at which all interested parties were given an opportunity to be heard.

(4) The burden of proving that credit should be given is on the parent claiming credit for the payments.

(5) Shelter payments made prior to service of the notice and finding of financial responsibility shall 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. No credit shall be allowed for shelter payments made after service of the notice and finding of financial responsibility.

[Statutory Authority: 1988 c 275, 88-18-031 (Order 2689), § 388-11-015, filed 8/30/88. 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 as follows:

(a) The amount the responsible parent owes as an accrued debt, and a statement of the demand for payment thereon;

(b) The amount the responsible parent should pay for current and future support:

(i) Under WAC 388-11-200, if current income information is known; or

(ii) Under WAC 388-29-100 if income is unknown.

(c) The responsible parent's responsibility for medical support under WAC 388-11-215.

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

(a) The name of the residential parent;

(b) Each name, birthdate, and Social Security number of the child or children on whose behalf support is being sought;

(c) The name, address, and Social Security number of the responsible parent;

(d) The responsible parent's employer; and

(e) A statement that:

(i) 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 the responsible parent should not be determined to be liable for any or all of the debt, past and future;

(ii) Any objection shall be communicated, in writing, and served on the district field office of the office of support enforcement issuing the notice and finding of financial responsibility;

(iii) If the responsible parent fails to object in writing, within twenty days to the support debt and the current support amounts stated in the notice and finding of financial responsibility, the support debt and/or current support amount shall become final and subject to collection action without further action or notice;

(iv) A notice of payroll deduction may be issued or other income withholding action under chapters 26.18 or 74.20A RCW may be taken, without further notice to the responsible parent, if a support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month;

(v) After service of the notice, all payments made which are intended to satisfy a current support obligation and/or support debt 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 support obligation whether or not such payment is in cash, check, money order, in-kind services, merchandise, or anything else of value, except as provided under WAC 388-11-030.

[Statutory Authority: 1988 c 275, 88-18-031 (Order 2689), § 388-11-030, filed 8/30/88. 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. (1) The office of support enforcement shall serve a notice and finding of financial responsibility on a responsible parent:

(a) In a manner prescribed for the service of a summons in a civil action; or

(b) By certified mail, return receipt requested. The receipt shall be prima facie evidence of service.

(2) Reservice of the notice shall not be required when there has been a break in the payment of public assistance or in the provision of family independence program services.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-040, filed 8/30/88. 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, the department shall exercise reasonable efforts to locate the responsible parent. The department shall serve a notice and finding of financial responsibility within sixty days of the date the state assumes responsibility for the support of a dependent child on whose behalf support is sought. If service is not timely, the department shall lose the right to reimbursement of public assistance payments made after the sixtieth day and before the notice is served. However:

(a) The department shall not lose the right to reimbursement of public assistance payments for any period of time during which it exercised reasonable efforts to locate the responsible parent;

(b) The department shall not apply this rule to nonassistance cases, cases where the residential parent lives out of state, and cases where parentage is in issue and has not been established by superior court order; and

(c) The department shall consider a prorated share of each monthly public assistance payment as paid on each day of the month.

(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, the department shall exercise reasonable efforts to locate the responsible parent. The department shall serve a notice and finding of financial responsibility within six months of the date the state assumes responsibility for the support of a dependent child on whose behalf support is sought. If service is not timely, the department shall lose the right to reimbursement of public assistance payments made after the sixth month and before the notice is served. However:

(a) The department shall not lose the right to reimbursement of public assistance payments for any period of time during which it exercised reasonable efforts to locate the responsible parent. Reasonable efforts to locate shall be supported by contemporaneous recordings in the department's files;

(b) The department shall not apply this rule to nonassistance cases, cases where the residential parent lives out of state, or cases where parentage is in issue and has not been established by superior court order;

(c) The department shall consider a prorated share of each monthly public assistance payment as paid on each day of the month.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-045, filed 8/30/88. 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 Repealed. See Disposition Table at beginning of this chapter.

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 late hearing. 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) A copy of the petition shall also be served by certified mail, return receipt requested, or like a summons in a civil action on the district office of the office of support enforcement.

(3) The filing of a petition for a late hearing shall not stay any collection action being taken under chapter 74.20A RCW.

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

(5) A hearing under this section shall 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; and

(d) Such other matters as may aid in disposition of the proceeding.

(6) The office of support enforcement may petition for temporary current and future support any time prior to the final decision. The administrative law judge shall, in writing, order payment of temporary, current and future support in an amount determined under WAC 388-11-205.

(a) Payment shall be ordered to be paid beginning with the month in which the petition for a late hearing is granted.

(b) 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 chapters 26.23 and 74.20A RCW during the pendency of the hearing or thereafter to collect any amounts owing under the temporary order.

(7) 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 and held 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.

(8) 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: 1988 c 275. 88-18-031 (Order 2689), § 388-11-055, filed 8/30/88. 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. (1) Any responsible parent who objects to all or any part of the notice and finding of financial responsibility may, within twenty days from the date of service of the notice and finding of financial responsibility, make a written request for a hearing.

(2) The request shall be served upon the office of support enforcement by registered or certified mail or like a summons in a civil action.

(3) Collection action under the notice shall be stayed only until the final hearing decision.

(4) If the responsible parent fails to object, within twenty days, to the notice and finding of financial responsibility, the findings stated in the notice shall become final, subject to the provisions of WAC 388-11-055. Any support debt stated and/or any future periodic support obligation shall be subject to collection action.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-060, filed 8/30/88. 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 Defenses to liability. (1) A responsible parent who objects to the notice and finding of financial responsibility shall have the burden of establishing defenses to liability. Defenses include, but are not limited to:

- (a) Payment;
- (b) Superior court order;
- (c) He or she is not a responsible parent;
- (d) The amount requested in the notice is inconsistent with the amount assessed under WAC 388-11-205; or
- (e) Any other matter constituting an avoidance or affirmative defense.

(2) A dependent child's or a residential parent's ineligibility to receive public assistance is not a defense to the assessment of a support obligation.

(3) A responsible parent may be excused from providing support for a dependent child receiving public assistance if the responsible parent is the legal custodian of the child and has been wrongfully deprived of physical custody of the child. The responsible parent may only be excused for any period during which he or she was wrongfully deprived of custody. The responsible parent must establish:

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

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

(c) The child was taken or enticed from the responsible parent's physical custody and he or she has not subsequently assented to deprivation. Proof of enticement shall require more than a showing that the child is allowed to live without certain restrictions the responsible parent would impose; and

(d) Within a reasonable time after deprivation, the responsible parent exerted and continues to exert reasonable efforts to regain physical custody of the child.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-065, filed 8/30/88. 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-11-080 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-11-090 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-11-100 Duty of the administrative law judge. (1) In hearings held under this chapter to contest a notice and finding of financial responsibility, the administrative law judge shall determine:

(a) The responsible parent's obligation to provide support under RCW 74.20A.057;

(b) The net monthly income of the responsible parent and any residential parent;

(c) The responsible parent's share of the basic support obligation and any adjustments to that share, as warranted by his or her circumstances;

(d) If requested by a party, the responsible parent's share of any special child-rearing expenses;

(e) The responsible parent's obligation to provide medical support under WAC 388-11-215;

(f) The responsible parent's accrued debt and order payments thereon; and

(g) The responsible parent's total current and future support obligation as a sum certain and order payments thereon.

(2) The administrative law judge shall allow the office of support enforcement to orally amend the notice and finding of financial responsibility at the hearing to conform to the evidence.

(3) Except as provided for under WAC 388-11-185, the administrative law judge 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 to liability. However, this rule shall not apply to relevant, nonconfidential information or documents that the office of support enforcement has in its possession.

(4) The administrative law judge shall issue an initial decision and order within twenty days of the close of the hearing record.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-100, filed 8/30/88. 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. (1) Within thirty days of service of the initial decision, either the responsible parent or the office of support enforcement may petition, in writing, the secretary or his or her designee for review of the initial decision and order. The petitioner shall state the basis for the requested review and shall mail a copy of the petition to the other party by certified or registered mail to his or her last known address.

(2) The secretary or his or her designee shall review an initial decision and order under chapter 388-08 WAC to the extent those rules are relevant and consistent with the rules adopted in this chapter.

(3) The petition for review shall be based on:

(a) An irregularity in the conduct of the administrative law judge or in the issuance of an order which prevented a fair hearing;

(b) A prevailing party's misconduct;

(c) An administrative law judge's abuse of discretion;

(d) New evidence which could not have been discovered with reasonable diligence before the hearing;

(e) A claim that the findings of fact are not supported by substantial evidence;

(f) An error in mathematical computation;

(g) A claim that the decision is contrary to law;

(h) A claim that the petitioner is unable to perform according to the terms of the order without further clarification;

(i) A claim that substantial justice has not been done;

(j) The occurrence of fraud or a witness's misstatement of material facts;

(k) A clerical mistake in the decision; and/or

(l) A claim that a default order, entered because the responsible parent failed to appear at the hearing, should be vacated and the case remanded upon a showing of good cause.

(4) If no petition for review is filed, the initial decision shall be final as of the date of filing and shall become the final decision of the department. If a petition for review of an initial decision is not made in a timely manner, there shall be no appeal to the courts. Any debt in the decision shall be subject to collection action.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-105, filed 8/30/88. 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 administrative order may be vacated if the order was based upon fraud by any witness or party.

(2) The party claiming fraud shall request a hearing to vacate the administrative order within a reasonable period of time after the date the fraud was discovered or should have been discovered.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-115, filed 8/30/88. 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 a hearing, the administrative law judge shall, upon a showing of valid service, enter an initial

decision and default order. The administrative law judge shall state in the decision that the support debt and the current support obligation stated in the notice and finding of financial responsibility are assessed, determined, and subject to collection action.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-120, filed 8/30/88. 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-11-140 Modification. (1) A responsible parent whose support obligation has been administratively established or the office of support enforcement may request a hearing to prospectively modify the parent's obligation if circumstances have materially changed. The request shall be in affidavit form and shall state:

(a) The circumstances that have changed; and

(b) The amount of support the circumstances now warrant.

(2) The petitioning party shall serve the request for modification on the responding party like a summons in a civil action or by certified mail, return receipt requested.

(3) The petitioning party need not show a change of circumstance if the original support obligation was established under WAC 388-11-050.

(4) If the responding party fails to appear at the hearing, the administrative law judge shall issue a default order based on the terms set out in the request for modification. If the petitioning party fails to appear at the hearing, the administrative law judge shall enter an order dismissing the request for modification.

(5) The administrative law judge may set the effective date of modification as the date the order is issued, the date the request was made, or any time in between. If no effective date is set, the effective date shall be the date the modification order is entered.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-140, filed 8/30/88. Statutory Authority: RCW 74.08.090. 81-05-021 (Order 1605), § 388-11-140, filed 2/11/81; 80-01-026 (Order 1465), § 388-11-140, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-140, filed 6/15/78; Order 1054, § 388-11-140, filed 9/25/75; Order 875, § 388-11-140, filed 11/16/73.]

WAC 388-11-150 Consent order and agreed settlement. (1) Informal disposition of any contested case shall be encouraged where feasible through a consent order or agreed settlement.

(a) An agreed settlement shall be effective without approval of an administrative law judge.

(b) A consent order shall require the approval of an administrative law judge to be effective. The administrative law judge shall approve a consent order without requiring testimony or a hearing unless the entry of such an order would be specifically contrary to law.

(2) If negotiations to a consent order or agreed settlement are commenced within twenty days of service of the notice and finding of financial responsibility, and

such negotiations fail, the responsible parent shall have an additional twenty days from the date the negotiations fail to request a hearing. A hearing so requested shall be considered timely.

(3) Consent orders or agreed settlements shall not be subject to review under WAC 388-11-105, but shall be subject to modification under WAC 388-11-140 and vacation for fraud under WAC 388-11-115.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-150, filed 8/30/88. 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. (1) The responsible parent's obligation to pay support under an administrative order shall continue in effect until:

- (a) Superseded by a superior court order;
- (b) Modified pursuant to WAC 388-11-140;
- (c) The child reaches the age of majority;
- (d) The child is emancipated;
- (e) The child is married; or
- (f) The child becomes a member of the United States armed forces.

(2) As an exception to the above rule, a responsible parent's obligation to pay support under an administrative order shall continue and/or may be established for a dependent child who is:

- (a) Under nineteen years of age; and
- (b) 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 he or she becomes nineteen years of age.

(3) A responsible parent's obligation to pay support under an administrative order shall be temporarily suspended when:

- (a) The responsible parent resides with the child for whom support is sought for purposes other than visitation; or
- (b) The responsible parent reconciles with the child and the residential parent.

(4) If the circumstances which cause a responsible parent's support obligation to be temporarily suspended change, the support obligation shall resume. The office of support enforcement shall serve the responsible parent with a notice informing him or her to resume payments if it has previously notified the parent in writing to stop making payments.

(5) The responsible parent's obligation to provide support under an administrative order shall cease to accrue when:

- (a) The child or the responsible parent dies; or
- (b) A responsible stepparent's marriage is dissolved.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-155, filed 8/30/88. Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-155, filed 12/14/79.]

WAC 388-11-180 Procedural reference. Hearings held under RCW 74.20A.055 shall be subject to the provisions of chapters 10-08 and 388-08 WAC to the

extent these provisions are relevant and consistent with the rules adopted under this chapter.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-180, filed 8/30/88. 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. (1) Either party may ask the administrative law judge to order interrogatories and/or depositions for use as evidence in a hearing.

(2) The administrative law judge shall determine if such discovery will be allowed and under what terms and conditions.

(3) 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.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-185, filed 8/30/88; Order 1054, § 388-11-185, filed 9/25/75.]

WAC 388-11-190 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-11-195 Economic table. (1) As of July 1, 1988, the department shall use the economic table adopted by the Washington state child support schedule commission to assess all child support obligations. This economic table is incorporated by reference.

(2) The economic table is expanded as follows:

(a) If the combined income of the responsible parent and any residential parent is five hundred dollars, then the responsible parent's basic support obligation shall be seventy-five percent of the amount it would be if the parents' income was six hundred dollars; if four hundred dollars, then fifty percent; and if less than four hundred dollars, then twenty-five dollars per month per child.

(b) If support is sought for six children, then the responsible parent's basic support obligation for each child shall be eighty-five percent of the amount it would be for a child of the same age under the economic table for five children;

(c) If support is sought for seven children, then the responsible parent's basic support obligation for each child shall be seventy-five percent of the amount it would be for a child of the same age under the economic table for five children; and

(d) If support is sought for eight or more children, then the responsible parent's basic support obligation for each child shall be sixty-five percent of the amount it would be for a child of the same age under the economic table for five children.

(2) State public policy intends:

(a) Support orders be adequate to meet a child's basic needs and provide additional support commensurate with the parent's income, resources, and standard of living; and

(b) To give preference for supporting dependent children from the funds of their responsible parents.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-195, filed 8/30/88.]

WAC 388-11-200 Financial worksheet calculations.

(1) The department shall require responsible parents and any residential parents to each complete a financial worksheet under penalty of perjury when a hearing has been requested or when support is determined by consent order or agreed settlement. The department shall only accept those worksheets that are approved by the Washington state child support schedule commission. The department may complete a worksheet on behalf of a residential parent who receives public assistance or who resides in another state.

(2) A parent shall include as gross income money from any source, including, but not limited to, salaries, wages, commissions, bonuses, deferred compensation, overtime, dividends, interest, trust income, severance pay, annuities, capital gains, social security benefits, worker's compensation, unemployment compensation, disability insurance benefits, gifts, and prizes.

(3) A parent shall disclose the receipt of AFDC, SSI, general assistance, food stamps, and spousal maintenance from any relationship, but such shall not be counted as income.

(4) A parent shall deduct only income taxes, FICA, mandatory pension plan payments, mandatory union/professional dues, spousal maintenance for other relationships, nonrecurring overtime/bonus income, and nonrecurring gifts and prizes from gross income. A self-employed parent shall deduct normal business expenses and self-employment taxes.

(5) The department shall impute income to any parent who is voluntarily unemployed or underemployed as follows:

(a) For a parent who quit their last job without cause, was fired for cause, or chooses not to work, impute income equal to the amount of the parent's last full time wage;

(b) For a parent who is voluntarily working less than full time, for whatever reason, impute income equal to the amount the parent would earn if working full time at their present job. Do not consider a parent underemployed if employed on a full-time basis;

(c) For a parent who is unemployed through no fault of their own, impute income equal to their earning potential. Presume each parent capable of full-time employment at at least the minimum wage;

(d) Impute no income to a residential parent who receives public assistance if that parent is in compliance with all job search, education, and/or training requirements of the assistance program. Presume any residential parent receiving public assistance to be in compliance with the requirements of that program;

(e) Impute no income to a parent who is unemployable. Lack of employment opportunities alone shall not render a parent unemployable.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-200, filed 8/30/88.]

WAC 388-11-205 Assessing support. (1) The department shall determine the net income of a responsible parent and any residential parent according to WAC 388-11-200.

(2) The department shall determine the basic support obligation:

(a) Based on the combined net incomes of the responsible parent and any residential parent, rounded to the nearest one hundred dollars;

(b) For each child, according to the economic table and the total number of children on whose behalf support is sought;

(c) In total; and then

(d) Allocate between the parents based on each parent's share of the total combined net income.

(3) The department shall adjust the responsible parent's share of the basic support obligation to reflect circumstances in their household and the household of any residential parent. Such adjustments shall not reduce the responsible parent's share of the basic support obligation by more than fifty percent, nor increase it by more than fifty percent. The department shall make adjustments only for the reasons and in the amounts listed below:

(a) If the responsible parent is legally obligated to support and is in fact supporting another child in addition to the child on whose behalf support is sought; and

(i) If such child lives outside the responsible parent's own household, then reduce the responsible parent's share of the basic support obligation ten percent for each such child;

(ii) If such child lives in the responsible parent's own household and receives child support from another parent, receives SSI, SSA, or VA benefits, works at least half-time, or also lives with its other parent, then reduce the responsible parent's share of the basic support obligation five percent for each such child; and/or

(iii) If such child lives in the responsible parent's household and has no other source of support other than the responsible parent, then reduce the responsible parent's share of the basic support obligation fifteen percent for each such child.

(b) If the residential parent is legally obligated to support one or more children living in their home or elsewhere who are not children of the responsible parent, then increase the responsible parent's share of the support obligation five percent;

(c) If a child on whose behalf support is sought receives SSI, services from the department's division of developmental disabilities, special educational services from a public school, or has special medical needs, then increase the responsible parent's share of the support obligation five percent;

(d) If the responsible parent lives with another adult, regardless of whether that adult contributes to their household, then increase the responsible parent's share of the support obligation five percent. However, if the other adult is the responsible parent's spouse and is unemployable, no increase shall occur;

(e) If the residential parent lives with another adult, regardless of whether that adult contributes to their household, then reduce the responsible parent's share of the support obligation five percent. However, if the other adult is the residential parent's spouse and is unemployable, then no reduction shall occur;

(f) If a child on whose behalf support is sought has their own recurrent income equal to at least the amount the responsible parent would be obligated to pay for him or her under the economic table, then reduce the responsible parent's share of the support obligation five percent;

(g) If the responsible parent has extraordinary debt not voluntarily incurred which exceeds fifty percent of their annual gross income, then reduce the responsible parent's share of the support obligation five percent. Countable debts included are not limited to:

- (i) Medical bills;
- (ii) Court-ordered restitution; and
- (iii) Civil judgments.

(h) If the residential parent has extraordinary debt not voluntarily incurred which exceeds fifty percent of their annual gross income, then increase the responsible parent's share of the support obligation five percent. Countable debts include, but are not limited to:

- (i) Medical bills;
- (ii) Court-ordered restitution; and
- (iii) Civil judgments.

(i) If the responsible parent has wealth in the form of assets equal to fifty percent or more of their annual gross income, then increase the responsible parent's share of the support obligation five percent. Countable assets include, but are not limited to:

- (i) Equity in real or personal property;
- (ii) Stocks or bonds;
- (iii) Automobiles, recreational vehicles, or boats;
- (iv) Artwork;
- (v) Pension or insurance plans; and/or
- (vi) IRAs, bank accounts, or cash.

(j) If the residential parent has wealth in the form of assets equal to fifty percent or more of their annual gross income, then reduce the responsible parent's share of the support obligation five percent. Countable assets include, but are not limited to:

- (i) Equity in real or personal property;
- (ii) Stocks or bonds;
- (iii) Automobiles, recreational vehicles, or boats;
- (iv) Artwork;
- (v) Pension or insurance plans; and
- (vi) IRAs, bank accounts, or cash.

(k) If for reasons beyond the responsible parent's control, their living costs exceed twice the need standard level of WAC 388-29-100 for their household size, then reduce the responsible parent's share of the support obligation five percent. Countable living costs are limited to reasonable amounts for:

- (i) Food;
- (ii) Clothing;
- (iii) Shelter;
- (iv) Utilities;
- (v) Medical attendance; and
- (vi) Job-related transportation.

(l) If for reasons beyond the residential parent's control, their living costs exceed twice the need standard level of WAC 388-29-100 for their household size, then increase the responsible parent's share of the support

obligation five percent. Countable costs are limited to reasonable amounts for:

- (i) Food;
- (ii) Clothing;
- (iii) Shelter;
- (iv) Utilities;
- (v) Medical attendance; and
- (vi) Job-related transportation.

(m) If a child on whose behalf support is sought would receive greater benefits under a proposed tax planning scheme than that which would be assessed under the economic table, then reduce the responsible parent's share of the support obligation five percent;

(n) If unusual circumstances exist in the responsible parent's household that warrant adjustment, then reduce the responsible parent's share of the support obligation five percent. This subsection may be applied to the responsible parent's circumstances only once;

(o) If unusual circumstances exist in the residential parent's household that warrant adjustment, then increase the responsible parent's share of the support obligation five percent. This subsection may be applied to the residential parent's circumstances only once.

(4) If requested by any parent or their agent, the department shall determine special child rearing expenses for such items as day care, tuition, extraordinary uninsured medical expenses, and long distance transportation. The department shall allocate these expenses between the parents in the same proportion as the basic support obligation.

(5) The department shall add the responsible parent's share of the basic support obligation, as adjusted above, to their share of any special child rearing expenses. Reduce the sum of these amounts by any:

(a) Direct payments the responsible parent currently makes to third parties for special child-rearing expenses;

(b) Amounts the responsible parent is obligated under WAC 388-11-215 to pay for health insurance; and/or

(c) Residential credits for a child who stays overnight with the responsible parent more than twenty-five percent of the time. This reduction shall be unavailable if the child on whose behalf support is sought receives AFDC or if insufficient funds are available to meet the basic needs of the child in the house receiving the support.

(6) The responsible parent's total support obligation shall consist of:

(a) Their adjusted share of the basic support obligation;

(b) Amounts the responsible parent is obligated to pay for health insurance; and

(c) Amounts the responsible parent is obligated to pay for special child-rearing expenses.

(7) The responsible parent shall pay any amounts they are determined to owe for health insurance directly to their insurance provider. The responsible parent shall pay all other amounts they are determined to owe, including any amounts currently paid to third parties for special child-rearing expenses, to the office of support enforcement.

(8) The responsible parent's total administrative support obligation shall not exceed fifty percent of their net income. However, this fifty percent limitation shall not apply if:

- (a) The responsible parent is determined to have wealth;
- (b) A child on whose behalf support is sought is determined to have special medical or educational needs;
- (c) Support for five or more children is sought; or
- (d) Special child rearing expenses are assessed.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-205, filed 8/30/88.]

WAC 388-11-210 Administrative orders. Every administrative order shall include:

- (1) The income of the responsible parent and any residential parent;
- (2) The amount of the responsible parent's share of the basic support obligation without adjustments;
- (3) The amount of the responsible parent's share of the basic support obligation after adjustments;
- (4) The specific reasons for deviation, if the adjusted amount is different than the unadjusted amount;
- (5) The total amount of the responsible parent's support obligation;
- (6) The specific day of the month on which the support payment is due;
- (7) The responsible parent's Social Security number, residence address, and the name of his or her employer;
- (8) The residential parent's Social Security number;
- (9) The names, birthdates, and Social Security numbers, if any, of the dependent children; and
- (10) A disposition of the responsible parent's obligation to provide health insurance under WAC 388-11-215.
- (11) A statement that the responsible parent shall make his or her payment to the Washington state support registry;
- (12) A statement that the department may issue a notice of payroll deduction or may take other income withholding action under chapters 26.18 or 74.20A RCW, without further notice to the responsible parent, if a support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month;

(13) A statement that each parent shall notify the Washington state support registry of any change in resident address; and

(14) A statement that a support obligation established under this chapter shall continue until:

- (a) Modified under WAC 388-11-140;
- (b) Superseded by superior court order; or
- (c) The child for whom support is assessed reaches the age of majority or is emancipated.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-210, filed 8/30/88.]

WAC 388-11-215 Health insurance. (1) Any parent owing a duty of support shall be obligated to provide health insurance for his or her dependent child.

(2) When health insurance for the dependent child is available to the responsible parent through employment or through some other group insurance organization, unless the residential parent has satisfactory health insurance other than Medicaid for the child, the responsible parent shall:

- (a) Provide health insurance coverage; and
- (b) Provide proof of such coverage to the office of support enforcement within ten days. Proof of coverage shall include, but not be limited to, documentation showing:

(i) The subscriber or policy holder through whom the health insurance is available;

(ii) The names of the beneficiaries covered;

(iii) The policy number; and

(iv) Coverage is current.

(3) If health insurance coverage for the child is not immediately available, the responsible parent shall provide for coverage during the next open enrollment period and submit proof of such coverage as required under subsection (2)(b) of this section.

(4) When health insurance to cover a dependent child is not available to the responsible parent through employment or through any other group insurance organization, the responsible parent shall, within ten days:

(a) Notify the office of support enforcement when such health insurance coverage becomes available; and

(b) Provide proof of such coverage as required under subsection (2)(b) of this section.

(5) A responsible parent shall only be entitled to the reduction for health insurance premiums paid if:

(a) The responsible parent submits proof of coverage to the office of support enforcement as required under WAC 388-11-215; and

(b) The responsible parent pays the required premium; and

(c) If the responsible parent fails to submit proof or pay the premium, the office of support enforcement shall collect the adjusted basic support obligation without a reduction for health insurance premium payments.

[Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-215, filed 8/30/88.]

Chapter 388-14 WAC SUPPORT ENFORCEMENT

WAC	
388-14-010	Office of support enforcement as the Title IV-D agency.
388-14-020	Definitions.
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388-14-320	Repealed.

388-14-325	Repealed.
388-14-370	Cooperative arrangements with courts and law enforcement officials.
388-14-385	Conference board.
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388-14-415	Notice of support debt.
388-14-420	Termination of support enforcement services.
388-14-425	Payroll deduction—Notice and order—Issuance and termination.
388-14-430	Income withholding action.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-14-320	Nonassistance support enforcement—Distribution. [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.] Repealed by 88-07-012 (Order 2606), filed 3/4/88. Statutory Authority: RCW 74.08.090.
388-14-325	Nonassistance support enforcement—Termination of services. [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.] Repealed by 88-07-012 (Order 2606), filed 3/4/88. Statutory Authority: RCW 74.08.090.

WAC 388-14-010 Office of support enforcement as the Title IV-D agency. (1) 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 the child support enforcement program. Authority for this plan is under Title IV-D of the Social Security Act and chapters 74.20 and 74.20A RCW. The plan shall be in effect state-wide.

(2) The office is the designated, single, and separate organizational unit within the state of Washington to administer the plan.

(3) The office is the agency referred to in federal law as the Title IV-D agency. The office shall perform all duties assigned to the Title IV-D agency.

(4) The office may enter into contracts for support enforcement and related services with:

- (a) Other state agencies;
- (b) Other states or foreign countries for action under the Uniform Reciprocal Enforcement of Support Act and other laws to enforce or collect child support, locate absent parents, or establish paternity. These contracts may include the procedures for:
 - (i) Making referrals;
 - (ii) Assigning debts;
 - (iii) Reporting actions and activities;
 - (iv) Coordination of activities under and ensuring compliance with the Uniform Reciprocal Enforcement of Support Act.
- (c) Private parties;
- (d) With the secretary, Department of Health and Human Services to refer and certify cases:
 - (i) To the federal parent locator service;
 - (ii) To the secretary of the treasury for action to collect support debts;

(iii) For action to enforce support debts in the U.S. district courts.

(5) The office shall manage the Title IV-D plan. The office shall:

(a) Oversee all activities under the plan to ensure the standards for an efficient and effective program are met;

(b) Evaluate the quality and scope of services provided under the plan;

(c) Ensure that federal and state requirements for records management, accounting, and fiscal control are met;

(d) Provide all services under the plan in appropriate cases, including action to locate parents, establish paternity, and establish, enforce, and collect support moneys;

(e) 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) Under chapter 26.23 RCW, the office is designated as the agency responsible for administering the Washington state support registry.

(7) The office is responsible for the state-wide administration of wage withholding under Title IV-D.

[Statutory Authority: RCW 74.08.090. 88-07-012 (Order 2606), § 388-14-010, filed 3/4/88; 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. The definitions contained in WAC 388-11-011 are incorporated into and made a part of this chapter.

(1) The term "absent parent" means 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 for whom the office is providing nonassistance support enforcement services.

(2) "Aid" or "public assistance" means aid to families with dependent children or AFDC foster care and includes family independence program services to families as an alternative to AFDC.

(3) The term "applicant/custodian" means the person who is the physical custodian of any dependent child or children on whose behalf nonassistance support enforcement services are being provided by the office of support enforcement under RCW 74.20.040, chapter 26.23 RCW, and 42 U.S.C. 654(6) or 42 U.S.C. 657(C).

(4) The terms "applicant/recipient," "applicant," or "recipient" include the caretaker relative, the children, and any other person whose needs are considered in determining the amount of public assistance. See also WAC 388-22-030.

(5) The term "disposable earnings" means that part of earnings of an individual remaining after the deduction of amounts required by law to be withheld.

(6) The term "earnings" means compensation paid or payable for personal services.

(a) Earnings include:

(i) Wages or salary;

(ii) Commissions and bonuses;

(iii) Periodic payments under pension plans, retirement programs, and insurance policies of any type;

(iv) Disability payments under Title 51 RCW;
 (v) Unemployment compensation as provided for in RCW 50.40.020 and 50.40.050, and Title 74 RCW;
 (vi) Gains from capital, labor, or from both combined; and

(vii) The fair value of nonmonetary compensation received in exchange for personal services.

(b) Earnings do not include profit gained through the sale or conversion of capital assets.

(7) The term "employee" means a person in employment to whom an employer is paying, owes, or anticipates paying earnings as the result of services performed.

(8) The term "employer" means any person or organization having any person in employment. It includes:

- (a) Partnerships and associations;
- (b) Trusts and estates;
- (c) Joint stock companies and insurance companies;
- (d) Domestic and foreign corporations;
- (e) The receiver or trustee in bankruptcy;
- (f) The trustee or the legal representative of a deceased person.

(9) The term "employment" means personal services of whatever nature, including service in interstate commerce, performed for earnings or under any contract for personal services. The contract may be written or oral, express or implied.

(10) "Family" means 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.

(11) "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.

(12) The term "income" includes:

- (a) All appreciable gains in real or personal property;
- (b) Net proceeds from the sale or exchange of real and personal property; and
- (c) Earnings.

(13) The term "income withholding action" includes all withholding action the office is authorized to take. The term includes, but is not limited to actions to:

- (a) Assert liens under RCW 74.20A.060;
- (b) Issue orders to withhold and deliver under RCW 74.20A.080, and notice of payroll deduction under chapter 26.23 RCW;
- (c) Obtain wage assignment orders under RCW 26.18.080.

(14) The term "office" means the office of support enforcement.

(15) The term "physical custodian" means the natural or adoptive parent, or other person, with whom a dependent child resides a majority of the time. The physical custodian may be either an applicant/recipient or applicant/custodian.

(16) "Putative father" includes 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).

(17) The "required support obligation for the current month" means the amount of a superior court order for support or the periodic future support amount that is or will be owing for the current month determined under chapter 388-11 WAC.

(18) The term "resident" means persons physically present in the state of Washington who intend to make their home in this state. Temporary absence from the state does not destroy residence once established.

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

(20) The term "support enforcement services" includes all action the office is required to perform under Title IV-D and state law. This includes, but is not limited to, action to establish, enforce, and collect child, spousal, and medical support obligations, and distribution support moneys.

(21) "Secretary" means the secretary of the department of social and health services, his or her designee, or authorized representative. For all purposes in chapter 74.20A RCW, secretary shall mean the designee of the secretary, the director, revenue division, or his or her designee, except as is provided for in WAC 388-11-011(5) where for purposes of RCW 74.20A.055 "secretary" has another meaning.

(22) "Title IV-D" means 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).

[(23) "Title IV-D plan" means the plan established under the conditions of Title IV-D approved by the secretary, Department of Health and Human Services.]

[Statutory Authority: RCW 74.08.090, 88-07-012 (Order 2606), § 388-14-020, filed 3/4/88; 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.]

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 388-14-030 Confidentiality. (1) Under RCW 26.23.120, all information and records, concerning persons who owe a support obligation or for whom the office provides support enforcement services, are private and confidential. The office shall disclose information and records only as follows:

(a) The office shall disclose information and records only to:

(i) Persons or entities listed and for the specific purpose or purposes stated in federal law;

(ii) The person who is the subject of the information or records, unless the information or records is exempt under RCW 42.17.310;

(iii) Local, state, and federal government agencies for support enforcement and related purposes;

(iv) A party to a judicial proceeding or a hearing under chapter 34.04 RCW, if the presiding officer enters an order to disclose. The order shall be based upon a

written finding that the need for the information outweighs any reason for maintaining privacy and confidentiality;

(v) Parties under contract, if disclosure will allow them to assist in the management or operation of the program;

(vi) To persons or entities when necessary to the administration of the program or the performance of functions and duties as set forth in state and federal law. The office may publish information about responsible parents for locate and enforcement purposes;

(vii) Persons, representatives, or entities if the person who is the subject of the information and records concerns, in writing, to disclosure;

(viii) The office of hearings for administration of the hearing process under chapter 34.04 RCW: *Provided however*, That the office of hearings shall not include the address of the physical custodian in an administrative support order, or disclose the physical custodian's address to the responsible parent, except as provided in subsection (1)(a)(iv) of this section. The support order shall state that the address is known by the Washington state support registry and inform the parties they may obtain the address by submitting a request for disclosure to the office of support enforcement under this section.

(b) The last known address of, or employment information about, a party to a court or administrative order for, or a proceeding involving, child support may be given to another party to the order. This information may only be used to establish, enforce, or modify a support order. Disclosure of this information is subject to other limitations listed in this section;

(c) The last known address of natural or adoptive children may be given to a parent, who has a court order granting him or her visitation rights with, legal custody of or residential time with their natural or adoptive children. This information may only be used to enforce the terms of the court order;

(d) The Social Security number or numbers of the dependent child or children may be disclosed to the absent parent to enable the parent to claim the dependency exemption or exemptions as authorized by the Internal Revenue Service.

(2) The rules and procedures set forth in chapter 388-320 WAC, relating to the process for requesting and disclosing information and records, are applicable to requests for disclosure under this section.

(3) The office shall take timely action on requests for disclosure. The office shall respond in writing within ten working days of receipt of the request, unless the request is for disclosure of the address of the physical custodian or the dependent children. The office shall respond to requests for addresses within ten days of the date the thirty-day notice period, provided for in subsection (5) of this section, expires.

(4) The following provisions apply to requests for disclosure of the address of the physical custodian or dependent children under subsection (1)(b) and (c) of this section:

(a) The office shall not release the address if:

(i) The department has determined, under WAC 388-24-111, that the physical custodian has good cause for refusing to cooperate;

(ii) The order, upon which the request is based, restricts or limits a requesting party's right to contact or visit the other party or the children by imposing conditions to protect the physical custodian or the children from harm.

(b) Persons shall submit requests for disclosure in writing and in person, with satisfactory evidence of identity, at any office of the office of support enforcement;

(c) If the request is made by the person's attorney, the office shall waive the provisions regarding submission in person with satisfactory evidence of identity;

(d) If the person resides outside the state of Washington, the office shall waive the provision requiring submission in person if the person submits a notarized request for disclosure and complies with the requirements of subsection (4)(e) of this section;

(e) The requester shall attach the following to a request for disclosure of an address:

(i) A copy of the superior court or administrative order upon which the request is based. The office shall waive this provision if the office has a true copy of the order on file;

(ii) A sworn statement by the individual that the order has not been modified;

(iii) A statement explaining the purpose of the request and how the information will be used.

(5) Prior to disclosing the address of the physical custodian or children, the office shall mail a notice to the last known address of the physical custodian, except as provided in subsection (6) of this section. The notice shall advise the physical custodian that:

(a) A request for disclosure has been made; and

(b) The office will disclose the address, to a person under subsections (1)(b) and (c) of this section, after thirty days from the date of the notice, unless the office receives a copy of a court order which:

(i) Enjoins disclosure; or

(ii) Restricts the requesting party's right to contact or visit the other party or the children by imposing conditions to protect the physical custodian or the children from harm, including, but not limited to, temporary orders for protection under chapter 26.50 RCW.

(6) The office will not mail a notice prior to disclosure:

(a) If the requesting party can show the other party will likely flee and that:

(i) 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 requesting party; and

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

(iii) The child or children were taken or enticed from the physical custody of the requesting party without the requesting party's consent; and

(iv) The requesting party has not subsequently assented to being deprived of physical custody of the children; and

(v) The requesting party is making reasonable efforts to regain physical custody of the child or children; or

(b) When the child or children are receiving foster care services under chapter 74.13 RCW.

(7) If the child or children are receiving foster care services, parties shall contact their local community services office for disclosure of address information.

(8) The rules of confidentiality and penalties for misuse of information and reports that apply to employees of the department also apply to persons who receive information under this section.

(9) Nothing in these rules shall be construed:

(a) To prevent the office from disclosing information and records when such disclosure is necessary to the performance of its duties and functions as provided by state and federal law;

(b) To require the office to disclose information and records obtained from a confidential source.

[Statutory Authority: 1988 c 275. 89-01-049 (Order 2738), § 388-14-030, filed 12/14/88. Statutory Authority: RCW 74.08.090. 88-07-012 (Order 2606), § 388-14-030, filed 3/4/88; Order 1054, § 388-14-030, 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. These requirements also affect eligibility for family independence program services.

(1) Beginning August 1, 1975, as a condition of eligibility for assistance, each applicant/recipient shall make assignment to the office of any and all right, title, and interest in any support obligation the applicant/recipient may have. This includes support rights of any other family member for whom the applicant/recipient is applying for or receiving financial assistance. It also includes rights to support which have accrued at the time such assignment is executed. Through this assignment, the applicant/recipient authorizes the office to provide services for the family, and to continue to provide services after the family stops receiving assistance, until services are terminated under this chapter.

(2) When subsection (1) of this section is satisfied, cooperation is further required as a continuing condition of eligibility for assistance unless the department determines that the applicant/recipient has good cause not to cooperate under WAC 388-24-111. Cooperation includes, but is not limited to, assisting the office in or by doing the following:

(a) Identifying and locating absent parents by:

(i) Providing all relevant information known to, possessed by, or reasonably obtainable by the applicant/recipient about the absent parent, such as the absent parent's:

(A) Name and known aliases;

(B) Address;

(C) Telephone number or numbers;

(D) Social Security number;

(E) Employment history; and

(F) Physical description.

(ii) Providing data regarding the date and place of marriage, separation, divorce, or dissolution, and copies of any documents, which are reasonably obtainable without fee, including any court orders establishing paternity and/or support obligations;

(iii) Providing information to establish the amount of the support debt accrued prior to the application. Applicants shall give information at the time of application and/or at a later time, if requested by the office, to supplement existing information.

(b) Notifying the office when there are changes in information concerning the absent parent;

(c) Establishing the paternity of a child:

(i) The applicant shall take all reasonable action requested by the office, the prosecuting attorneys, the attorney general, private attorneys compensated under RCW 74.20.350, courts, or other agencies in:

(A) Administrative hearings; or

(B) Actions to prosecute or maintain any legal action or remedy for the establishment of paternity; or

(C) Investigations preparatory to or supplementary to such hearings or actions.

(ii) The applicant shall assist in the development of medical and anthropological evidence relating to the alleged father's paternity based upon tests performed by experts on the mother and the child.

(d) Establishing and collecting support and/or in obtaining support payments or any other payments or property due the applicant/recipient or a dependent child. The applicant shall take all reasonable action requested by the office, the prosecuting attorneys, the attorney general, private attorneys compensated under RCW 74.20.350, courts or other agencies in:

(i) Administrative hearings; or

(ii) Actions to prosecute or maintain any legal action or remedy for the establishment or collection of support obligations; or

(iii) Investigations preparatory to or supplementary to such hearings or actions.

(e) Remitting all support payments the applicant/recipient receives, from any person or agency, to the office within eight days of receipt of said payments;

(f) Executing a repayment agreement and repaying retained support moneys under the agreement.

(3) An applicant/recipient may attest to the lack of information, under penalty of perjury, if:

(a) He or she submits to an interview:

(i) Conducted by the office, a prosecuting attorney, the attorney general, or private attorney compensated under RCW 74.20.350; and

(ii) Answers questions intended to obtain relevant information.

(b) The requested information is not known to, possessed by, or reasonably obtainable by the applicant/recipient.

(4) Any applicant/recipient who attests to the lack of information shall be considered to be cooperating, as required under this section, unless:

(a) The applicant/recipient fails or refuses to submit to an interview and answer questions;

(b) The department produces credible evidence which shows that the applicant/recipient's attestation is false; or

(c) The applicant/recipient previously gave inconsistent information for which he or she has no reasonable explanation.

(5) The department may not refuse to allow the applicant/recipient to sign an attestation or sanction him or her for failure to cooperate merely because previous attempts to identify an absent parent resulted in blood test results excluding the person identified. The applicant/recipient, however, must cooperate with any necessary retesting.

(6) The department shall find the applicant/recipient ineligible to receive assistance if the applicant/recipient fails to cooperate as defined in this section. The department shall provide any assistance for which the children may be eligible as specified in WAC 388-33-453. The department shall compute requirements for the child or children without regard to the requirements of the applicant/recipient.

(7) If the office, the prosecuting attorney, the attorney general, or a private attorney compensated under RCW 74.20.350, believes the applicant/recipient is not cooperating, they shall notify the community services office of the noncooperation. The notice of noncooperation shall include:

(a) A statement explaining how the applicant/recipient failed to cooperate; and

(b) A statement of the action the applicant/recipient must take to resume cooperation.

(8) The department shall either attach a copy of the notice of noncooperation to, or include the statements from the notice in, the notice of planned action.

(9) If the applicant/recipient fails to cooperate by missing an interview without reasonable excuse, cooperation resumes when the applicant/recipient appears for a rescheduled interview and either provides information or attests to the lack of information. The office, prosecuting attorney, attorney general, or private attorney shall reschedule the interview within seven business days from the date the applicant/recipient contacts them to reschedule an interview.

(10) Cooperation resumes when the applicant/recipient performs the required action. The department shall reinstate the grant effective on the date cooperation resumes.

(11) If the applicant/recipient does not remit support moneys within eight days of receipt as required under WAC 388-14-200 (2)(e)(ii) and the applicant/recipient is currently receiving an AFDC grant, or cash benefits under the family independence program, the office 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 public assistance, 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 possesses;

(iii) A proposed repayment agreement that 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 the office, within twenty days of the date of service of the notice of debt, to:

(A) Clarify the recipient's responsibilities for cooperation; and

(B) 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 under WAC 388-13-060 to:

(A) Contest the department's claim of ownership of the support money identified in the notice; and/or

(B) The reasonableness of the proposed repayment agreement.

(vii) A statement that the office will notify the community services office that the recipient 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.

(12) The department shall base the repayment agreement on:

(a) The applicant/recipient's total income and resources including the AFDC grant or cash benefits under the family independence program; and

(b) The total amount of retained support moneys.

(13) The monthly amount of the repayment shall not exceed ten percent of:

(a) The grant payment standard during any month the applicant/recipient remains in public assistance status, or

(b) The cash benefits paid under the family independence program.

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

(15) The office shall notify the community services office when the recipient fails to cooperate if:

(a) The recipient fails to sign a repayment agreement for the amount of retained support moneys claimed by the office in the notice of debt or as determined by an administrative law judge if a hearing is requested under 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.

(16) The office shall promptly notify the community services office when either of the following changes in circumstances occurs:

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

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

(17) Nothing in these rules 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: 1988 c 275, 89-01-049 (Order 2738), § 388-14-200, filed 12/14/88. Statutory Authority: RCW 74.08.090, 88-07-012 (Order 2606), § 388-14-200, filed 3/4/88. 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 shall provide services, until such services are terminated under this chapter, when:

(a) The department pays public assistance or provides foster care services;

(b) A former recipient of public assistance is eligible for services under WAC 388-14-302 (a) or (b);

(c) An applicant/custodian requests nonassistance support enforcement services under RCW 74.20.040 and WAC 388-14-302.

(d) A support order or wage assignment order under chapter 26.18 RCW directs that support payments are to be made through the Washington state support registry;

(e) A support order under which there is a current support obligation for the dependent children, is submitted to the Washington state support registry;

(f) A former custodial parent requests services to collect a support debt that has been reduced to a sum certain judgment by the court or agency of competent jurisdiction; and

(g) A child support enforcement agency in another state or foreign country under reciprocal agreement requests support enforcement services.

(2) Whenever possible and/or appropriate under the circumstances, the office shall take action under chapter 74.20A RCW to establish, enforce, and collect the child support obligation. The office may refer appropriate cases to the county prosecuting attorney or attorney general's office when judicial action is required.

(3) The office shall 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 shall request that all activities under Title IV-D to establish paternity or secure child support be suspended until the CSO notifies the office of its final

determination regarding an applicant or recipient who has claimed good cause. 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.

(b) 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.

(c) The office shall review and comment on the findings and basis for the proposed determination by the CSO.

(d) The office shall 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.

(4) The office shall:

(a) Establish, maintain, retain, and dispose of case records in accordance with the department's records management and retention policies and procedures adopted pursuant to chapter 40.14 RCW.

(b) Establish, maintain, and monitor support payment records; and

(c) Receive, account for, and distribute child support payments required under superior court and administrative orders for support.

(5) When the office determines a support obligation, established by order of a superior court of this state, has been satisfied or is no longer legally enforceable, the office shall mail a notice of its intent to file a satisfaction of judgment to the last known address of the payee under the order and the responsible parent. The notice shall contain the following provisions:

(a) A statement of the facts the office relied on in making the determination; and

(b) A statement that payee has twenty days to object and request a conference board under WAC 388-14-385, or initiate an action to obtain a judgment from the court that entered the order.

(6) If the conference board or the court determines the support obligation or a support debt still exists, the office shall withdraw the notice and shall make reasonable efforts to enforce and collect the remaining support debt. If not, the office shall file a satisfaction of judgment with the clerk of superior court in which the order was entered.

(7) A support obligation is satisfied or no longer legally enforceable when the obligation to pay current and future support terminates under the order, and:

(a) The support debt owed under the order has been paid in full;

(b) The support debt is no longer enforceable due to the operation of the statute of limitations; or

(c) The office determines the responsible parent has a valid defense to payment of the debt under Washington law; or

(d) Under RCW 74.20A.220, the office determines the debt is uncollectible, grants a total or partial charge-off, or accepts an offer to compromise a disputed debt.

[Statutory Authority: 1988 c 275, 89-01-049 (Order 2738), § 388-14-205, filed 12/14/88. Statutory Authority: RCW 74.08.090, 88-07-012 (Order 2606), § 388-14-205, filed 3/4/88; 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) Persons paying support moneys to satisfy a support obligation assigned to the department or which the department has been authorized to enforce and collect shall route such payments to the office. See RCW 74.20.101.

(2) Recipients of public assistance or other persons or agencies receiving support moneys on behalf of a recipient of public assistance shall remit all such moneys to the office within eight days of receipt of the payment.

(3) Persons paying support moneys to satisfy a support obligation under a superior court or administrative order for support, directing the responsible parent to make payments to the Washington state child support registry, shall route all such moneys to the office.

(4) After a responsible parent has been ordered or notified to make payments to the office or the Washington state child support registry, the office will not credit the parent for payments made to any other person or agency: *Provided however*, That credit may be granted if:

(a) The department determines that there is no prejudice to the custodial parent or other person or agency entitled to receive the support payments, or to the children, and that there are special circumstances of an equitable nature which justify credit for such payments; or

(b) A court of competent jurisdiction determines that credit should be granted after a hearing at which all interested parties were given an opportunity to be heard.

(5) The burden of providing that credit should be given is on the parent claiming credit for the payments.

[Statutory Authority: RCW 74.08.090, 88-07-012 (Order 2606), § 388-14-210, filed 3/4/88; 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 secretary or secretary's 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 deemed relevant to the performance of the secretary's duties.

[Statutory Authority: RCW 74.08.090, 88-07-012 (Order 2606), § 388-14-220, filed 3/4/88; 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 388-14-270 Distribution of support payments—Public assistance. (1) When the office provides support enforcement services, the office shall distribute all support money collected by the office, or received by the office in its capacity, as the Washington state support registry:

(a) In accordance with state and federal law, if public assistance, or cash benefits under the family independence program, is being or has been provided for the support of the family unit;

(b) To the payee under the order if the payee has physical custody of the children;

(c) To the physical custodian of the children if someone other than the payee has physical custody of and is caring for the children; and/or

(d) To the child support enforcement agency in another state or foreign country which submitted a request for support enforcement services.

(2) Prior to distributing support moneys to a physical custodian who is not the payee under the support order, the office shall:

(a) Obtain a sworn statement from the physical custodian attesting to the fact he or she has physical custody of the children and is caring for them;

(b) Mail a notice of its intent to distribute support money to the physical custodian to the last known address of the payee and the responsible parent:

(i) The notice shall contain the following statements and information:

(A) That the office has collected or received support money due under the support order;

(B) The name of the physical custodian;

(C) That the payee may contest distribution of money to the physical custodian by requesting a conference board under WAC 388-14-385, or filing an appropriate motion with the court that entered the support order;

(D) That the office must be given notice of and made a party to any proceeding to contest the notice of distribution.

(ii) A copy of the sworn statement of the physical custodian shall be attached to the notice; and

(c) File a copy of the notice with the clerk of the court in which the support order was entered.

(3) If the location of the family or person to whom the support money is owed is unknown, the office shall exercise reasonable efforts to locate the family or person. If the office is unable to locate and disburse the money to the family or person, the office shall handle the money in accordance with an agreement with the department of revenue and as required by state law.

(4) The office shall apply the following rules to the distribution of support money:

(a) Record all payments in exact amounts without rounding;

(b) Distribute a support payment within eight days of the date the office receives the payment, unless unable to distribute the payment for one or more of the following reasons:

(i) The location of the payee is unknown;

(ii) There is not sufficient information to identify the accounts against which and to which the payment should be applied;

(iii) An action is filed in a court or agency with jurisdiction to decide the issue, to determine whether or not a support payment is owed and/or how the payment should be distributed;

(iv) Under subsection (6) of this section, the office receives prepaid support moneys which are being held and will be distributed in future months;

(v) The office mails a notice of intent to distribute the support money to the physical custodian under subsection (2) of this section; or

(vi) Other circumstances exist which make a proper and timely distribution of the payment impossible through no fault or lack of diligence of the office.

(c) The date of collection shall be the date on which the payment is received by the office. For interstate collections, the date of collection shall be the date on which the payment is received by the office or the legal entity of any state or political subdivision actually making the collection, whichever is earliest;

(d) The office shall apply all payments:

(i) To satisfy the support obligation for the month in which the payments are received and, then;

(ii) To any support debt or debts owed to:

(A) The family;

(B) A person for whom services are being provided;

(C) The department; or

(D) A child support agency in another state or foreign country.

(e) If the responsible parent owes a current support obligation to more than one family and does not pay enough money during the month to satisfy these current support obligations in full, the office shall distribute the money collected based on the proportionate share of the obligation owed to each family;

(f) The office shall apply amounts received during a month in excess of the responsible parent's current support obligation or obligations to the support debt or debts based on the proportionate size of the debts, except as provided in subsection (4)(g) of this section, if:

(i) The support payment or payments exceed the amount required to satisfy the current support obligation or obligations for that month; and

(ii) The responsible parent owes more than one support debt.

(g) The office may apply amounts distributed under this subsection to a single support debt rather than make a proportionate distribution in the following circumstances:

(i) To satisfy a support debt owed to the family that accrued after the family terminated from public assistance as provided for in RCW 26.23.030; or

(ii) If proportionate distribution is administratively inefficient; or

(iii) If the collection resulted from the sale or disposition of a specific piece of property in which the applicant/recipient or applicant/custodian has a judgment lien for child support.

(h) The office shall convert amounts collected which are paid more frequently than once a month to an amount that 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.

(i) The office shall report any amounts distributed to a family, receiving public assistance, 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.

(5) If the office receives or collects support moneys which represent payment on the required support obligation for future months, the office shall:

(a) Apply the support moneys to such future months if the support debt has been paid in full; and

(b) Distribute the support moneys on a monthly basis as of the date payments become due in the future.

(6) When the office receives or collects prepaid support moneys, the office shall mail a notice to the last known address of the person entitled to receive support payments. The notice shall inform the person that:

(a) The office received prepaid support money;

(b) The office will distribute this money as support payments become due in the future; and

(c) He or she may petition the court that entered the support order for an order requiring the immediate distribution of the prepaid support money.

(7) The office may recover support money distributed to a person or to the family in error, after receipt of a check which is later dishonored, or the office is later required to refund or return the support payment, as follows:

(a) In nonassistance cases, the office may deduct and retain, from subsequent support payments, any amounts collected on a support debt and ten percent of amounts collected as current support. The office shall send a notice to the last known address of the person or family prior to taking action to recover such payments. The notice shall:

(i) Contain a finding that a payment was distributed in error, was paid against a check that was later dishonored, or that the office was required to refund the support payment to the responsible parent;

(ii) Identify the payments the office will recover; and

(iii) Inform the person or family of the amounts that will be deducted from future collections; and

(iv) Inform the person or family they may request an administrative hearing under chapter 34.04 RCW to object to the notice. At the hearing, the person may contest the office's findings regarding the existence and amount of the debt for erroneous payments or other payments the office is seeking to recover.

(b) If person or family is no longer receiving support enforcement services, the office of support enforcement may take action under RCW 74.20A.270 to recover the money.

(8) If the family is receiving public assistance and the applicant/recipient fails to remit support payments to the office as required, the office shall use the process set forth in WAC 388-14-200 to recover such support payments.

[Statutory Authority: 1988 c 275. 89-01-049 (Order 2738), § 388-14-270, filed 12/14/88. Statutory Authority: RCW 74.08.090. 88-07-012 (Order 2606), § 388-14-270, filed 3/4/88; 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 388-14-302 Nonassistance support enforcement--Persons eligible. (1) The office of support enforcement shall provide support enforcement services to:

(a) 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;

(b) A former custodial parent, who is not currently receiving support enforcement services, to collect a support debt that has been reduced to a sum certain judgment by a court or agency of competent jurisdiction; or

(c) A responsible parent who submits a support order to the Washington state support registry.

(2) 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.

(3) If a request for nonassistance support enforcement services is denied, the office shall send a written notice of the denial 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.

[Statutory Authority: RCW 74.08.090. 88-07-012 (Order 2606), § 388-14-302, filed 3/4/88; 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 unless:

(a) The superior court or administrative order directs that support payments shall be paid through the Washington state support registry, or

(b) The clerk of court submits an order under RCW 26.23.050(5), or

(c) The office is continuing to provide services to a former recipient of public assistance.

(2) If the support order, or wage assignment under chapter 26.18 RCW, directs payments through the registry, or the order was submitted to the registry by the clerk, the person entitled to receive support payments under the order shall be deemed to:

(a) Have made a request for services, and

(b) Have authorized the office to take appropriate action to enforce and collect support and perform related and necessary functions.

(3) The person desiring nonassistance services shall complete the necessary forms in full, date, sign, and forward them to the district office of support enforcement. The applicant shall supply copies of divorce or dissolution decrees, support orders and modifications thereof, and any allied or related documents that reflect the marital and support status.

(4) 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. The office shall deny requests on which statements are incomplete, unclear, or inconsistent until such time as the request for services is presented in acceptable form.

(5) The department shall make the appropriate forms 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. Applicants may request the forms by phone, mail, or in person.

[Statutory Authority: RCW 74.08.090. 88-07-012 (Order 2606), § 388-14-305, filed 3/4/88; 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 provide support enforcement services, unless the applicant has or is deemed to have authorized the office to provide such services under WAC 388-14-200(1) or 388-14-305(2).

(2) The applicant/custodian shall:

(a) Give consent to the office to take an assignment of earnings from the person owing a duty to pay support;

(b) Agree to remit, within eight days of receipt, to the office support moneys received directly from the person owing a duty to pay support; and

(c) Agree to direct any payor or forwarding agent of support moneys to remit directly to office.

(3) If the applicant/custodian fails to forward and/or fails to provide adequate documentation of direct payment as requested, the office may discontinue providing support enforcement services or decline to provide certain services as provided for in this chapter.

(4) The applicant/custodian shall not hire an attorney or collection agency to collect the support obligation or support debt without notifying the office. After receipt of such notice, the office shall send a written statement to the applicant/custodian, and the attorney or collection agency, which shall include a directive that all support payments must continue to be made through the Washington state support registry, and a statement that the office may discontinue certain support enforcement services if the support payments are not made through the registry, or action taken by the attorney or agency conflicts with action the office would otherwise take to establish, enforce, or collect a support obligation.

[Statutory Authority: RCW 74.08.090. 88-07-012 (Order 2606), § 388-14-310, filed 3/4/88; 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-14-325 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-14-370 Cooperative arrangements with courts and law enforcement officials. (1) The office of support enforcement is authorized to enter into cooperative arrangements, and written agreements including financial arrangements with appropriate courts and law enforcement officials to assist the office to administer 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). 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.

(3) In order to qualify for payments, a political subdivision, court or law enforcement official of the state of Washington shall obtain referral of the case or cases involved from the office of support enforcement and pay all support payments made subsequent to referral 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.

[Statutory Authority: RCW 74.08.090, 88-07-012 (Order 2606), § 388-14-370, filed 3/4/88; 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 inquire 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 of responsible parents, custodial parents, or other persons. An applicant for a conference board proceeding shall 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 director, revenue division, or director's designee may assemble a conference board on application of

the aggrieved person or on the director's own motion to investigate, find facts, and state or apply policy or law to the end of resolving grievances.

(c) The director or the director's designee may take such action, as deemed appropriate, and may individually exercise any of the authority provided for in this regulation, if:

(i) The grievance or issue presented in an application for conference board does not involve a factual dispute, or

(ii) 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 in this section.

(d) If an apparent factual dispute exists:

(i) The director or director's designee shall assemble a conference board composed of the director or director's designee, who shall serve as chairman, and two staff members, if deemed necessary.

(ii) The chairman of the conference board shall mail a notice, to the applicant and any other person or agency who is a party in interest to the proceeding, that a conference board has been convened and inform the parties of the time and place of the conference board at least seven days prior to the date the conference board is scheduled.

(e) 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 deemed 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. The director may designate persons having specific familiarity with the matter at issue or technical expertise with the subject to advise the board as required.

(f) 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) Review of determinations that a support obligation has been satisfied or is no longer legally enforceable;

(xi) 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.

(xii) 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 conference board shall dissolve upon issuance of decisions on matters for which it was appointed.

(3) The board's 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. The director shall vacate decisions inconsistent with the standards in this section and remand them for issuance of a new decision in compliance with the standards.

(4) The office shall establish a file of pertinent documents for each case and distribute a copy of the decision, signed by the chairman, to:

(a) The applicant;

(b) Other parties in interest when requested;

(c) The appropriate office of support enforcement district field office for action consistent with the decision of the board; and

(d) The director.

(5) The board shall base decisions under RCW 74.20A.220 to grant partial or total charge-off 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) on the following considerations and shall state them in the written decision of the conference board fully justifying the action taken:

(a) Error in law or bona fide legal defects that 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 that are greater than the amount to be charged off; or

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

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

[Statutory Authority: 1988 c 275. 89-01-049 (Order 2738), § 388-14-385, filed 12/14/88. Statutory Authority: RCW 74.08.090. 88-07-012 (Order 2606), § 388-14-385, filed 3/4/88; 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 388-14-405 Order to withhold and deliver--Responsibilities of employer. (1) Where money is due and owing to the debtor under any contract of employment, the notice of payroll deduction or 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 notice or 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 notice or 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.

(3) The notice of payroll deduction or 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. 88-07-012 (Order 2606), § 388-14-405, filed 3/4/88; 86-05-009 (Order 2340), § 388-14-405, filed 2/12/86.]

WAC 388-14-415 Notice of support debt. (1) The notice of support debt issued, under RCW 74.20A.040, shall state that:

(a) The office is providing support enforcement services on behalf of the responsible parent's dependent children.

(b) Twenty-one days after service of the notice, the office will take action to collect the responsible parent's support obligation. The office shall take collection action without further notice if a support payment is more than fifteen days past due in an amount equal to the support payable for one month. Collection action includes issuing orders to withhold and deliver and notices of payroll deduction, or taking other income withholding action.

(c) After service of the notice, the responsible parent must make all support payments through the Washington state support registry.

(d) The responsible parent will not receive credit for payments made to a person or agency other than the support registry under RCW 26.23.050(7) and 74.20.101.

(2) The notice shall be served on the responsible parent like a summons in a civil action, or shall be mailed to his or her last known address by certified mail, return receipt requested.

(3) The notice of support debt shall contain:

(a) The current monthly amount for support under a court or administrative order;

(b) An initial finding of the current support amount if there is no fixed dollar amount in the order, and the basis, rationale, or formula used to make the initial finding;

(c) The amount of any support debt, including medical support, owed by the responsible parent;

(d) A statement that the responsible parent has twenty days after service of the notice to contest the initial finding for current support or support debt amount by either:

(i) Making a written request for an administrative hearing to be held under chapter 34.04 RCW; or

(ii) Filing an action in superior court.

(4) The office may make the initial finding based upon:

(a) The factors stated in the order; and

(b) The responsible parent's earnings, if known; or

(c) The responsible parent's ability to earn if the actual earnings are unknown; or

(d) The needs of the dependent child(ren) if the responsible parent's earnings and ability to earn are unknown.

(5) If the responsible parent does not request a hearing or start an action in superior court the office shall:

(a) Issue a default order stating the notice amounts if the notice contained an initial finding of the amount for current support;

(b) Mail a copy of the order to the last known address of the responsible parent. A copy of the order shall also be mailed to the person to whom support is payable under the support order;

(c) Collect the amounts stated in the notice without further notice.

(6) If the responsible parent requests a hearing under this section, the department shall issue a notice of hearing. The notice shall direct the responsible parent to appear and show why the current support amount and/or the support debt amount is wrong. A copy of the notice

of hearing shall also be mailed to the person to whom the support is payable under the support order.

(7) The responsible parent shall:

(a) List the defenses to liability and/or state the reasons why support should not be set as stated in the notice in the request for a hearing;

(b) Attach an office approved financial affidavit;

(c) Serve the request for a hearing on the office by certified mail, return receipt requested, or like a summons in a civil action.

(8) If the responsible parent requests a hearing within twenty days, the office shall stay collection action pending the outcome of the hearing, except as provided in subsection (9) of this section.

(9) The office may take action to collect:

(a) Temporary support if the administrative law judge issues an order for temporary support;

(b) Any part of the support debt that the responsible parent fails to allege is not owed;

(c) A fixed or minimum dollar amount for current support stated in the court order;

(d) Any part of a support debt that has been reduced to a sum certain judgment by a proper court or agency.

(10) The responsible parent shall prove defenses to the initial finding for current support and/or the amount of the support debt.

(11) The following WAC provisions are incorporated by reference and apply to the hearing process under this section if and when relevant:

WAC 388-11-011, 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.

(12) After evidence has been presented at a hearing, the hearing examiner shall, within twenty days:

(a) Find the amount current support payable under the order;

(b) Find the amount of the support debt, including medical support, accrued prior to the date of service of the notice;

(c) Issue findings of fact, conclusions of law, and initial decision and order.

(13) The hearing examiner's order shall also provide that either the office or the responsible parent may request a yearly review of the support order.

(14) The hearing examiner in the initial decision, and the secretary or designee in review of the proposed decision, shall be limited to:

(a) Interpretation of the court order for support only. The hearing examiner shall have no authority to change or defer the support amount owed except to:

(i) Find the amount of monthly support as a fixed dollar amount; and

(ii) Find any arrears accrued prior to service of the notice of support debt.

(b) Correct mathematical computation of the stated debt;

(c) Superior court orders which have modified the superior court order in issue. Contempt orders and orders

entered under chapters 26.21 or 26.20 RCW shall not be construed as modifications.

(15) If the debtor fails to appear at the hearing, the hearing examiner shall, after proof of proper service, enter a decision and order declaring the support debt subject to collection action.

(16) The hearing examiner shall file the original of the initial decision and order with the secretary or the secretary's designee.

(17) The hearing examiner shall mail copies of the decision and order to:

(a) The office;

(b) The last known address of the responsible parent by certified mail;

(c) The last known address of the person to whom support is payable under the support order.

(18) The responsible parent or the office may request review of the initial decision within thirty days of receipt of the initial decision. Review shall be as set forth under WAC 388-11-105.

(19) Informal disposition of any hearing is favored where possible and not precluded by law. The office may dispose of cases by an agreed settlement, or consent order. The administrative law judge shall approve any consent order unless it is contrary to law.

(20) A support order issued under this section shall:

(a) Contain the notice and information listed in RCW 26.23.050(4), and

(b) Be filed with the clerk of the court that has jurisdiction over the court order.

(21) The office is not required to serve a notice of support debt on the responsible parent prior to collection action if:

(a) The office is providing services on behalf of the responsible parent's dependent children, and

(b) A superior court or administrative order directs the responsible parent to make support payments through the office or the Washington state support registry.

(22) The responsible parent may request a hearing under this section if the responsible parent claims credit for payments under WAC 388-14-210(4). When the department issues a notice of hearing to the responsible parent, the department shall mail a copy of the notice to the last known address of the person to whom support is payable under the order.

[Statutory Authority: RCW 74.08.090, 88-07-012 (Order 2606), § 388-14-415, filed 3/4/88; 86-05-009 (Order 2340), § 388-14-415, filed 2/12/86.]

WAC 388-14-420 Termination of support enforcement services. (1) After the office begins providing services under chapters 74.20 and 26.23 RCW, and this chapter, the office may terminate services as follows:

(a) If the support order was entered in the state of Washington, the office shall provide appropriate services until:

(i) The support obligation under the order ends and any support debt is paid or cannot be enforced under the laws of the state of Washington, or

(ii) The office receives proof that the responsible parent is dead and there is no available estate; or

(iii) A court of competent jurisdiction orders the office to terminate its services, based on an approved alternate payment plan or finding that it is not in the best interests of the child(ren) for the office to continue providing services.

(b) If the support order was entered in another state, the office shall provide appropriate services until:

(i) The person or agency withdraws the request for services;

(ii) The support obligation under the order ends and any support debt is paid or cannot be enforced; or

(iii) The physical custodian and the dependent child(ren) moves to and resides in another state or country. The office may provide services for no longer than five months from the date of the move; or

(iv) The office receives proof that the responsible parent is dead and there is no available estate; or

(v) The office receives no support payment for three years, despite reasonable collection efforts, and future collections are not foreseeable; or

(vi) The office makes reasonable efforts to locate the responsible parent, using local, state, and federal locate sources, and does not find any new locate information for three years; or

(vii) The physical custodian fails or refuses to cooperate with the office and the office cannot or should not proceed without such cooperation; or

(viii) The physical custodian hires a lawyer or collection agency to collect the support obligation or support debt without notice to and consent from the office, and fails or refuses to cooperate with the office's request to have support payments made through the support registry.

(c) If the office concludes that a support order cannot be obtained because:

(i) There is not enough information to identify or locate the responsible parent, and the office has made reasonable efforts to locate the parent;

(ii) There is not enough proof to establish the support obligation; or

(iii) The office has exhausted legal remedies.

(2) If the office is not authorized to terminate services under subsection (1) of this section, the office may discontinue or decline to provide certain services when:

(a) The physical custodian fails or refuses to cooperate with the office and the office cannot provide services without such cooperation; or

(b) The department or a court of competent jurisdiction finds that the person receiving services has wrongfully deprived the responsible parent of physical custody of the dependent child(ren) under the standards in WAC 388-11-065(10); or

(c) The support order was entered in the state of Washington and either:

(i) The office receives no support payment for three years, despite reasonable collection efforts, and future collections are not foreseeable; or

(ii) The office makes reasonable efforts to locate the responsible parent, using local, state, and federal locate

sources, and does not discover new locate information for three years.

(d) The office finds that it is either not advisable or not proper to provide and/or continue certain services; or

(e) The department or a court of competent jurisdiction finds that action to pursue a support obligation is reasonably likely to result in harm to the child(ren) or the child(ren)'s custodian.

(3) When the office terminates its services, the office shall mail a notice to the physical custodian. The office shall:

(a) Send the notice by regular mail to the last known address of the physical custodian;

(b) Include in the notice the reason(s) for terminating services; and

(c) State in the notice that the physical custodian may ask for a hearing to contest the office's decision to terminate services.

(4) A physical custodian who receives nonassistance services as of December 31, 1987, may ask the office to terminate those services up to one year from that date.

(5) The office may terminate support enforcement services when the department terminates foster care under Title 13 RCW.

(6) After the office terminates support enforcement services, the office shall return any moneys the office receives 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, 88-07-012 (Order 2606), § 388-14-420, filed 3/4/88.]

WAC 388-14-425 Payroll deduction—Notice and order—Issuance and termination. (1) Under RCW 26.23.050 and 26.23.060, the office may issue and serve a notice of payroll deduction upon the employer of a responsible parent. The office shall issue the notice of payroll deduction, without further notice to the responsible parent:

(a) If a support payment, owed under a superior court or administrative order for support, is more than fifteen days past due in an amount equal to or greater than the support payable for one month;

(b) If the statutory notice requirements are met; and

(c) When the office identifies the responsible parent's earnings.

(2) The notice of payroll deduction shall remain in effect until:

(a) The payroll deduction is quashed, modified, or terminated by the superior court pursuant to a motion filed by the support debtor; or

(b) The office determines, as a result of a conference board convened under WAC 388-14-385, to release the payroll deduction after the support debtor proves by competent evidence that:

(i) The support obligation was not delinquent at the time the notice of payroll deduction was issued; or

(ii) The payroll deduction causes extreme hardship or substantial injustice.

[Statutory Authority: 1988 c 275, 89-01-049 (Order 2738), § 388-14-425, filed 12/14/88. Statutory Authority: RCW 74.08.090, 88-07-012 (Order 2606), § 388-14-425, filed 3/4/88.]

WAC 388-14-430 Income withholding action. The office may take income withholding action as defined in this chapter if:

(1) A support order contains the notice set forth in RCW 26.23.050 (1) or (2), or the office served a notice on the responsible parent under RCW 26.23.050(3) or 74.20A.040; and

(2) A support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month.

If the support order contains the notice set forth in RCW 26.23.050 (1) or (2), the office may take such action, without further notice to the responsible parent, even though another provision of law states that some other form of notice should be given before the office takes collection action.

[Statutory Authority: RCW 74.08.090, 88-07-012 (Order 2606), § 388-14-430, filed 3/4/88.]

Chapter 388-15 WAC

SOCIAL SERVICES FOR FAMILIES, CHILDREN AND ADULTS

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-15-137	Central registry—Reports. [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.] Repealed by 87-23-057 and 87-24-039 (Orders 2561 and 2561A), filed 11/18/87 and 11/25/87. Statutory Authority: 1987 c 206.
388-15-138	Central registry—Information—Release—Dissemination—Expungement. [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.] Repealed by 87-23-057 and 87-24-039 (Orders 2561 and 2561A), filed 11/18/87 and 11/25/87. Statutory Authority: 1987 c 206.

388-15-139 Central registry—Eligibility—Procedures and criteria. [Order 1238, § 388-15-139, filed 8/31/77.] Repealed by 87-23-057 and 87-24-039 (Orders 2561 and 2561A), filed 11/18/87 and 11/25/87. Statutory Authority: 1987 c 206.

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 January 1, 1987, is thirty-one thousand seven hundred eighty-nine dollars. Eighty percent = twenty-five thousand four hundred thirty-one dollars.

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

Number in Family	Monthly Income	Annual Income
1	\$ 1,102	\$ 13,224
2	1,441	17,292
3	1,780	21,360
4	2,119	25,431
5	2,458	29,496
6	2,797	33,564

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

Family Size	Monthly Income	Annual Income
1	\$ 716	\$ 8,592
2	937	11,244
3	1,157	13,884
4	1,378	16,536
5	1,598	19,176
6	1,818	21,816

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

Family Size	Monthly Income	Annual Income
1	\$ 689	\$ 8,268
2	901	10,812
3	1,113	13,356
4	1,325	15,900
5	1,536	18,432
6	1,748	20,976

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

Family Size	Monthly Income	Annual Income
1	\$ 528	\$ 6,336
2	685	8,220
3	846	10,152
4	1,007	12,084
5	1,168	14,016
6	1,329	15,948

(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.

(6) Where other provisions of chapter 388-15 WAC set forth specific eligibility requirements for particular services, such specific provisions shall supersede the general eligibility standards set forth in subsections (1), (2), (3), and (4) of this section.

[Statutory Authority: RCW 74.12.340. 87-22-091 (Order 2552), § 388-15-020, filed 11/4/87. 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 388-15-136 Central registry--Duty to maintain. (1) CENTRAL REGISTRY REPEALED. Under section 16, chapter 486, Laws of 1987, the legislature repealed that section of RCW 26.44.070 requiring the department to maintain a central registry of reported child abuse.

(2) REPORTS NOT ACCEPTED. Effective July 27, 1987, no further reporting to the department's central registry will be accepted.

(3) EXISTING RECORDS MAINTAINED. Reports in the central registry prior to July 27, 1987, will be maintained as department records until their expungement date.

(4) RELEASE AND DISSEMINATION OF INFORMATION. The department may release child abuse or neglect information from the central registry as per section 12, chapter 524, Laws of 1987, or as otherwise provided by law or agency rule.

(5) SEALING OF THE REGISTRY. The department shall seal reports to the central registry if, after six years from the date of the last filed report, there have been no subsequent reports about the child, the adult dependent person, and/or the alleged perpetrator. Reports may also be sealed if a finding is reversed in a subsequent proceeding. 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 or adult dependent person.

[Statutory Authority: 1987 c 206. 87-23-057 and 87-24-039 (Orders 2561 and 2561A), § 388-15-136, filed 11/18/87 and 11/25/87. 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-138 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-139 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-170 General and seasonal child day care services. (1) The department may approve child day care funding to facilitate care, protection, and related services for a child under fifteen years of age. The department shall only fund child day care during the portion of the twenty-four-hour day when neither of the child's parents are able to provide necessary care and supervision. The department may authorize child day care services for the following reasons:

(a) Parent is employed and is not an AFDC grant recipient;

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

(c) School-aged parent is enrolled in an approved secondary education or GED program;

(d) Parent and/or child are in need of treatment or support as part of a child protective or child welfare services case plan. Such services may include, but are not limited to, those provided by a professional child welfare or educational agency.

(2) The department shall limit goals for general child day care services as specified in WAC 388-15-010 (1)(a), (b), and (c). Also see WAC 388-15-010(2).

(3) The department may purchase child day care, except for seasonal farmworker child care, within available funds for families:

(a) With gross income equal to or below thirty-eight percent of the state median income adjusted for family size (SMIAFS);

(b) With gross income above thirty-eight and at or below fifty-two percent of the SMIAFS. The family shall pay to the child day care provider fifty percent of their gross monthly income above the thirty-eight percent SMIAFS toward the cost of child day care;

(c) In need of child day care as an integral part of a child protective service plan. The department shall provide such service without regard to family income;

(d) In need of child day care as an integral part of a child welfare service plan and with gross income at or below fifty-two percent of the SMIAFS. The family shall pay the child care provider fifty percent of their gross monthly income above the thirty-eight percent SMIAFS toward the cost of care.

(4) The department may purchase seasonal child day care within available funds for children who are members of family units residing in Washington state where:

(a) Both parents, or the single parent (in the case of the one-parent family), are currently employed or seeking work in agriculturally related work; and

(b) At least fifty percent of the family's annual income is derived from agriculturally related work; and

(c) Both parents, or the single parent, have more than one agricultural employer per year; and

(d) Family gross income for the past twelve months does not exceed thirty-eight percent of the SMIAFS. Families with gross income above thirty-eight percent and at or below fifty-two percent of the SMIAFS shall pay the child day care provider fifty percent of their average gross monthly income above the thirty-eight percent SMIAFS toward the cost of child day care.

(e) Failure of parents to meet the requirements of subsection (4)(b) and (c) of this section due to status within the past year as an AFDC recipient shall not result in ineligibility for seasonal child care.

(5) The department shall establish waiting lists, if necessary, to ensure child day care services, under WAC 388-15-170, are provided within legislatively appropriated funds.

(6) The department considers in-home care as the care and supervision of a child:

(a) By a relative in the child's own home or a relative's home; or

(b) In their own home with an unrelated person.

(7) When the department approves an in-home child care plan at the request of a parent, the caretaker shall meet the following minimum qualifications and fulfill the following responsibilities:

(a) Be eighteen years of age or older;

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

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

(d) Subject to the discretion of the worker, the caretaker shall provide written evidence that he or she is in sufficient physical, emotional, and mental health to be a safe caretaker;

(e) Work with children without using corporal punishment or psychological abuse;

(f) Accept and follow instructions;

(g) Maintain personal cleanliness;

(h) Be prompt and regular in job attendance;

(i) The in-home caretaker shall have the following responsibilities:

(i) Consider his or her primary function that of child day care provider;

(ii) Provide constant care and supervision of the children for whom they are responsible throughout the time they are on duty in accordance with the children's needs; and

(iii) Provide appropriate activities for children under their care.

(8) Payment standards for child day care. The department shall establish maximum child care rates taking into consideration prevailing community rates.

(a) When the parent chooses in-home care, the parent shall receive payment for the cost of child day care and shall pay the in-home care provider according to the amount specified in the approved child care plan.

(b) The in-home care provider shall sign a receipt at the time payment is received. The parent must retain the payment receipt for review by the authorizing worker at the time of the next eligibility determination.

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

(d) Payment for child day care by relative. The department shall allow no payment for child care services by the following relatives: Father, mother, brother, sister, stepfather, stepmother, stepbrother, or stepsister.

(e) A child is eligible for child care subsidies when:

(i) The child receives an AFDC grant; and

(ii) The child lives with a nonresponsible relative;

(iii) The relative does not receive an AFDC grant; and

(iv) The relative is employed.

[Statutory Authority: RCW 74.08.090. 88-24-023 (Order 2732), § 388-15-170, filed 12/2/88; 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 388-15-207 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 applicants at risk of being placed in a residential care facility by providing allowable chore services tasks that may allow the eligible applicants to remain in or return to his or her own home whenever possible.

(3) The department shall limit goals for chore services for adults to those specified in WAC 388-15-010 (1)(b) and (d). Also see WAC 388-15-010(2).

[Statutory Authority: RCW 74.08.090. 88-17-064 (Order 2674), § 388-15-207, filed 8/17/88; 88-06-088 (Order 2605), § 388-15-207, filed 3/2/88; 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 applicants/clients are unable to do for themselves because of frailty or handicapping conditions.

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

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

(4) "Attendant care" means the service provided to eligible clients who were receiving attendant care services prior to April 1, 1988:

(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 client to be left alone. Protective supervision does not include responsibilities a legal guardian should assume. The department authorizes a daily rate payment for attendant care in the individual provider program.

(5) "Hourly care" means the service the department provides to eligible applicants needing assistance that may be scheduled with household and/or personal care tasks.

(6) "Own home" means the client's present or intended place of residence whether in a building rented or owned by the client or in the home of another person. The department provides chore services within the confines of the home property except for essential shopping, errands, and transportation necessary for the completion of authorized tasks.

(7) "Client review questionnaire (CRQ)" means an assessment form the department uses to determine the amount and type of chore services to be provided. The department staff uses the CRQ to identify, document, and score the allowable chore service needs of all eligible applicants/clients.

(8) The "CRQ authorization ceiling chart" means the chart that indicates the maximum number of hours the department may authorize for a client's score.

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

(10) "Shared living arrangement" means a situation where two or more adults share expenses and live together in a home of one of them with common facilities, such as living, cooking, and eating areas.

(11) "At risk of institutionalization" or "at risk of residential placement" means that the applicant/client meets criteria outlined in WAC 388-15-209 (1)(c).

(12) "High risk of residential care placement" means that the applicant/client meets the criteria outlined in WAC 388-15-209 (1)(b).

(13) "Client" means a person who is receiving chore services.

(14) "Applicant" means a person who applies for chore services.

(15) "Resources" means all real or personal property owned by or available to an applicant at the time of application which the department may apply toward meeting the applicant's requirements, either directly or by conversion into money or its equivalent.

(16) "Property that is owned or available" means property over which the applicant/client has legal right of control.

(17) "Companionship" means being with a person in the client's own home for the purpose of preventing loneliness or to accompany the client outside the home for other than basic errands, medical appointments, or laundry.

(18) "Activities essential to daily living" means the tasks listed in the CRQ.

[Statutory Authority: RCW 74.08.090. 88-17-064 (Order 2674), § 388-15-208, filed 8/17/88; 88-06-088 (Order 2605), § 388-15-208, filed 3/2/88; 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. Adults eligible for chore services shall be:

(a) Eighteen years of age and over;

(b) At high risk of residential care placement as evidenced by the need of assistance with one or more personal care tasks defined in WAC 388-15-208(9) as determined by completion and scoring of the CRQ;

(c) At risk of residential care placement and unable to perform one or more activities essential to daily living and are in social and economic need as evidenced by one or more of the following:

(i) Seventy-five years of age or over;

(ii) Homebound;

(iii) Chronic physical health problems;

(iv) Chronic mental health problems;

(v) Confused;

(vi) Socially isolated; and

(vii) Living alone.

(d) Authorized the amount of chore services as determined by the CRQ;

(e) Authorized payment for a maximum of one hundred sixteen hours per month of task-related services listed in the CRQ;

(f) Authorized services and department payment only when relatives, friends, nonprofit organizations, or other persons are not available or willing to provide the service without change;

(g) Referred to the volunteer chore service program, prior to approval of services by department paid providers when aged sixty or over and eligible for five hours per month or less of service;

(h) Referred to the volunteer chore service program, when aged sixty or over, are not eligible for chore services because of income or need level, or are eligible for a reduced level of service because of income, where such program exists, for needed hours of service not provided by the department.

(2) Financial eligibility.

(a) To be eligible to receive chore services, an applicant shall meet the financial eligibility requirements established by the department.

(b) An adult determined to be at high risk or at risk of being placed in a residential care facility is eligible to receive the level of hourly chore services as determined by WAC 388-15-212 if a recipient of:

(i) Supplemental Security Income and/or state supplementation; or

(ii) Limited casualty program medical care as defined by RCW 74.09.010 at time of eligibility determination; or

(iii) Has gross income, adjusted for family size, at or below thirty percent of the state median income.

(c) Adult protective service clients determined to be at high risk or at risk of being placed in a residential care facility are eligible to receive chore services without regard to income or resources, if these services are an integral but subordinate part of the adult protective services plan. These services are limited to a maximum of ninety days during any twelve-month period.

(d) An adult applicant or client with a gross income over thirty percent of the state median income (SMI) and determined to be at high risk or at risk of being placed in a residential care facility receives a reduced level of hours. The department shall determine the reduced level by:

(i) Deducting one hour of chore services for each percentage point by which the client's income exceeds thirty percent SMI; and

(ii) Deducting an additional hour of service for each percentage point by which the client's income exceeds fifty percent SMI.

(e) Clients or applicants shall not be eligible for chore services if they have resources in excess of ten thousand dollars for one person or fifteen thousand dollars for a two-person family. Allow another one thousand dollars for each additional family member.

The department shall consider the following resources 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;

(ix) Resources received in transfer or assignment from a spouse under WAC 388-92-043(5) are available to the applicant/client as a single-person household and subject to WAC 388-15-209 (2)(e) and (f).

(f) The department shall not consider the following resources, regardless of value, 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 client to earn income or to rehabilitate himself or herself;

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

(vi) Cash surrender value of life insurance.

(3) Continuing eligibility for attendant care for adults and supervision of children.

(a) The department shall no longer authorize attendant care for adults and supervision of children after March 31, 1988. The department shall provide services for persons applying on or after April 1, 1988, based on eligibility as determined in WAC 388-15-209 (1) and (2).

(b) Clients receiving attendant care and/or supervision of children prior to April 1, 1988, shall continue to be eligible to receive services.

(c) The department shall make periodic reviews to determine continuing need for and/or eligibility according to the following rules which were in effect prior to April 1, 1988:

(i) Authorize attendant care service for clients receiving attendant care prior to April 1, 1988, and requiring assistance with such unscheduled tasks as toileting, ambulation, and wheelchair transfer or protective supervision;

(ii) Authorize protective supervision when persons may hurt themselves, others, or damage property if left alone, or confused and may wander, or becomes easily disoriented;

(iii) Base the amount of service authorized on the total number of hours per day the chore service provider must be with a client. The chore service provider performs necessary household or personal care tasks or assists with activities of daily living during the authorized attendant care hours;

(iv) Authorize supervision of children only when the client is temporarily absent from the home because of hospitalization and all possible resources have been explored to provide the necessary supervision. This absence shall not exceed two weeks during any six-month period. The number of days and the number of hours per day that the children need supervision is recorded. The chore service provider performs household and personal care tasks for the children during the hours of supervision;

(v) The client shall provide verification of the need for attendant care by producing a statement from the client's physician.

(d) The department shall pay a daily rate for attendant care for adults and supervision of children. The rate shall not exceed the lesser of the following, a maximum of twenty-four dollars and fifty cents per day or the amount determined by the table as follows:

DAILY RATE DETERMINATION

HOURS OF SERVICE PER DAY	PAYMENT PER DAY
21 - 24	up to \$ 24.50
16 - 20	up to \$ 22.50
12 - 15	up to \$ 20.50
8 - 11	up to \$ 17.50
4 - 7	up to \$ 12.50
1 - 3	up to \$ 8.50

The department shall add up to five dollars per day for each additional client authorized for service in the household.

(i) The department shall pay a reduced amount equivalent to the individual provider program hourly rate when the client's income exceeds thirty percent SMI.

(ii) The department shall not pay for services when the client is 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.

(e) An attendant care client may request approval from the department to exceed the maximum daily rate set by the department. The department shall authorize a higher payment rate necessary to maintain the client in their own home when:

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

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

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

(iv) The total cost for attendant care services shall not exceed the lesser of the following, a maximum of thirty-one dollars and fifty cents per day, or the amount determined by the table as follows:

HOURS OF SERVICE PER DAY	ADDITIONAL PAYMENT PER DAY
21 - 24	up to \$7
16 - 20	up to \$6
12 - 15	up to \$5
8 - 11	up to \$4
4 - 7	up to \$3
1 - 3	up to \$2

(f) The department shall inform all clients in writing of the process as defined in subsection (3)(e) of this section. Clients shall have the right to request approval from the department to exceed the maximum daily rate.

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

(h) When providing board and room or meals for the chore service provider is an extra cost to the client, the department may make a payment to partially reimburse the cost of this expense. The department shall not reimburse such costs for a spouse provider. The payment shall not exceed an allowance established by the department and shall be prorated by days of service.

(i) The department shall pay only after the department verifies service delivery.

(4) Continuing eligibility for family care services.

(a) The department shall no longer authorize family care after March 31, 1988. Applicants applying on or after April 1, 1988, shall be provided services based on eligibility as determined in WAC 388-15-209 (1) and (2).

(b) Clients receiving family care services prior to April 1, 1988, shall continue to be eligible to receive services.

(c) The department shall make periodic reviews to determine continuing need and/or eligibility for family care services according to the following rules which were in effect prior to April 1, 1988. Families may receive services when the client is the normal caretaker of the children, and:

(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; or

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

(iv) Children and family services confirms all possible resources have been explored and no one can or will provide the necessary care.

(d) For families to receive services, the total family income shall be at or below the financial eligibility requirements established by the department. Minor children shall not be financially eligible in their own right. The minor children are part of the family unit.

(e) The family care questions take 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 subsection (4)(e)(i), (ii), and (iii) are N = 0, M = 14, S = 27, and T = 40.

(f) The chore services provider may not act as a parent substitute or make major decisions affecting the children.

[Statutory Authority: RCW 74.08.090. 88-17-064 (Order 2674), § 388-15-209, filed 8/17/88; 88-06-088 (Order 2605), § 388-15-209, filed 3/2/88. Statutory Authority: ESHB 1221. 87-22-013 (Order 2550), § 388-15-209, filed 10/26/87. 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) The department shall determine the need for and amount of chore services for all applicants and clients of chore services according to the score on a CRQ. The department shall use a separate CRQ for each adult.

(2) Department staff shall administer the CRQ.

(3) The department shall not duplicate services nor payment in multiple-client households. In households with community options program entry system (COPES) and chore services, the department shall consider the chore services client as the secondary client.

(4) When administering the CRQ, department staff shall take into account the client's:

- (a) Risk of being placed in a residential care facility;
- (b) Ability to perform activities of daily living;
- (c) Living conditions;
- (d) Arrangements; and

(e) Availability and use of alternative resources, including immediate family, other relatives, neighbors, friends, community programs, and volunteers.

(5) The series of questions on the CRQ documents the client's need for assistance with the tasks available from the chore services program.

(a) The department shall base the scoring on the following to indicate the extent of assistance the client needs from the chore services program for each task:

(i) N = No service needed: 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 service needed: The client cannot perform this task without help and needs a minimal amount of assistance from the chore services program in addition to whatever help may or may not be received from other sources.

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

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

(b) The department shall award points 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 (6) of this section. The point total is converted into maximum allowable hours using the table set forth in subsection (7) of this section.

(6) The department shall score the allowable chore services program tasks, as defined by the department, according to the need and frequency of services as follows:

(a) Escort/transport to medical services: N = 0, M = 1, S = 2, T = 3;

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

(c) Laundry: N = 0, M = 1, S = 2, and T = 3. If there are no laundry facilities in the client's own home, the department shall award additional points: N = 0, M = 3, S = 5, and T = 7;

(d) Splitting/stacking/carrying wood: N = 0, M = 3, S = 5, and T = 7. Service to perform this task is available only to clients 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: N = 0, M = 1, S = 2, and T = 3;

(f) Cooking. 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. 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: N = 0, M = 4, S = 7, and T = 10;

(i) Care of appearance: N = 0, M = 1, S = 3, and T = 5;

(j) Body care: N = 0, M = 5, S = 10, and T = 15;

(k) Bed transfer: N = 0, M = 1, S = 3, and T = 5;

(l) Ambulation: N = 0, M = 4, S = 7, and T = 10;

(m) Wheelchair transfer: N = 0, M = 1, S = 3, and T = 5;

(n) Bathing: N = 0, M = 4, S = 7, and T = 10;

(o) Toileting: N = 0, M = 5, S = 10, and T = 15;

(p) Remind to take medicines: N = 0, M = 1, S = 2, and T = 3.

(7) The department shall determine the number of hours of chore services to be authorized per month by translating the total number of points awarded on the CRQ into a monthly authorization, using the following CRQ authorization ceiling chart:

CRQ SCORE	CEILING HOURS PER MONTH
1 - 4	5
5 - 9	8
10 - 14	11
15 - 19	14
20 - 24	18
25 - 29	21
30 - 34	24
35 - 39	28
40 - 44	31
45 - 49	34

CRQ SCORE	CEILING HOURS PER MONTH
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(7).

(8) The client or applicant may request approval from the department to exceed the ceiling hours authorized per month, as determined in subsection (7) 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 the client's health or safety; and

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

(c) Funds are available under provisions of WAC 388-15-214.

(9) The department shall inform all clients or applicants in writing of the process as defined in subsection (8) of this section. Clients or applicants shall have the right to request from the department approval to exceed the authorized hours as set forth in subsection (7) of this section.

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

(11) The department may provide chore services 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. 88-17-064 (Order 2674), § 388-15-212, filed 8/17/88; 88-06-088 (Order 2605), § 388-15-212, filed 3/2/88. Statutory Authority: ESHB 1221. 87-22-013 (Order 2550), § 388-15-212, filed 10/26/87. 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) The department may pay for services performed by a relative, but payment to a spouse, father, mother, son, or daughter may be made only when the relative:

(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) to meet the relative's financial needs; or

(c) Would otherwise be financially eligible to receive general assistance to meet the relative's own need.

(2) The department shall not pay a spouse providing chore services to an incapacitated, eligible client more than the amount of a one-person standard for a continuing general assistance grant plus increases required by the legislature. Refer to WAC 388-29-100 for grant standards.

(3) In the contracted program, the department pays the contractor who pays the chore service provider. Refer to WAC 388-15-208.

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

(a) The department pays an hourly wage for the actual number of hours worked on all chore service tasks. The hourly wage rate shall be four dollars and seventy-six cents per hour beginning September 1, 1987, and five dollars and fifteen cents per hour beginning September 1, 1988.

(b) When providing meals for the chore service provider is an additional cost to the client, the department may make a payment to partially reimburse the cost of this expense. The department shall not reimburse such costs for a spouse provider. The payment shall not exceed an allowance established by the department and shall be prorated by days of service.

(c) The department shall pay only after the department verifies service delivery.

[Statutory Authority: RCW 74.08.090. 88-17-064 (Order 2674), § 388-15-213, filed 8/17/88; 88-06-088 (Order 2605), § 388-15-213, filed 3/2/88. Statutory Authority: ESHB 1221. 87-22-013 (Order 2550), § 388-15-213, filed 10/26/87. 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 388-15-214 Chore services monthly dollar lid.

(1) The department shall establish a statewide monthly dollar lid based on the budget appropriation. The department shall impose this monthly dollar lid statewide, based on expenditure projections.

(2) When expenditure projections reach the monthly dollar lid, the department shall place names of applicants for chore services on a waiting list in the order of their risk of residential placement.

(3) The department shall admit all those at high risk, as defined in WAC 388-15-208(12), to the program before those at risk of residential care placement, as defined in WAC 388-15-208(11).

(4) When the projected chore service monthly expenditures fall below the monthly lid, the department shall contact applicants on the waiting list in the following priority order:

(a) Level A. Applicants at high risk of residential care placement needing help with any one of the following personal care tasks:

- (i) Feeding,
- (ii) Body care,
- (iii) Bed transfer,
- (iv) Wheelchair transfer, or
- (v) Toileting.

(b) Level B. Applicants at high risk of residential care placement needing help with four to six other personal care tasks;

(c) Level C. Applicants at high risk of residential care placement needing help with one to three other personal care tasks;

(d) Level D. Applicants at risk of residential care placement needing help with five household tasks;

(e) Level E. Applicants at risk of residential care placement needing help with three or four household tasks; and

(f) Level F. Applicants at risk of residential care placement needing help with one or two household tasks.

(5) In the event the monthly dollar lids are not sufficient to stay within the legislative appropriation for the chore services program, the department may make further reductions using a ratable scale.

[Statutory Authority: RCW 74.08.090, 88-19-031 (Order 2693), § 388-15-214, filed 9/12/88; 88-06-088 (Order 2605), § 388-15-214, filed 3/2/88.]

WAC 388-15-215 Limitations on program. (1) The department shall not pay for chore services for teaching or companionship purposes.

(2) Chore services shall not be used for the purpose of delivering skilled nursing care or developing social, behavioral, recreational, communication, or other types of skills.

(3) The department shall not provide chore services to a resident or provider in:

- (a) A group home,
- (b) Licensed boarding home,
- (c) Congregate care facility,
- (d) Intermediate care facility,
- (e) Skilled nursing facility,
- (f) Hospital,

- (g) Institution,
- (h) Adult family home, or
- (i) Child foster home.

Shared living arrangements are not considered group homes.

(4) The department shall provide chore services for the person needing and authorized to receive the service, but not for other household members unless they also meet the eligibility criteria for the service.

(5) The department shall not provide chore services when community resources or family, neighbors, friends, or volunteers are available and willing to provide the service without charge.

(6) The department shall not authorize or re-authorize chore services for an applicant or client who is eligible to receive community options program entry system funding or other duplicative services payment.

(7) The department shall not pay for chore services for hourly care clients when the clients are not residing at home, for example, because of hospitalization. In an emergency, however, the department may pay for limited services to enable the client to return home.

(8) The department shall periodically re-evaluate all approvals for additional hours. The department shall continue, deny, or alter services to correspond with the client's present chore services need. The department shall send the client a notice of the right to contest denials of service or approval of fewer service hours than previously approved.

(9) The department shall not pay for chore services for child care for working parent(s).

[Statutory Authority: RCW 74.08.090, 88-11-062 (Order 2625), § 388-15-215, filed 5/17/88; 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 services for employed disabled adults. (1) The following definitions shall apply for purposes of this section:

(a) "Employed" means engaged on a regular 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.

(2) Employed disabled adults shall be eligible for chore services as provided in this section if they are otherwise eligible under the provisions of WAC 388-15-207 through 388-15-215. The employed disabled adults shall participate in the cost of care as authorized by RCW 74.08.570.

(3) To be eligible for chore services under this section, a client or applicant shall 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) Be in need of chore services as determined by the department using a client review questionnaire.

(h) Have unearned income at or below forty percent of the state median income or be an adult supplemental security income and/or state supplementation recipient.

(i) Meet the resource limits specified for the chore services program in WAC 388-15-209 (2)(e) and (f).

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

(k) Agree to pay all chore service 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 services 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 department has previously determined the applicant "disabled" for the purpose of receiving social security disability insurance (SSDI) or supplemental security income (SSI) or federal aid medical care only (FAMCO), and 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 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 service costs to the client following receipt of documentation that the services were provided. If the department verifies that less service is provided 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 service 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) The department shall compute an applicant's work-related expenses as follows:

(a) The department shall deduct work-related expenses in accordance with the "percentage method" or the "actual method," whichever is chosen by the client;

(b) If the client chooses the "percentage method," the department shall deduct twenty percent of the gross earned income;

(c) If the client chooses the "actual method," the department shall deduct the actual cost of each work-related expense. The department shall use this method 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, the department shall not count work-related expenses 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 appropriate department staff.

[Statutory Authority: RCW 74.08.090. 88-11-062 (Order 2625), § 388-15-217, filed 5/17/88; 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 388-15-600 Community options program entry system (COPES)--Purpose--Legal basis. (1) The purpose of the community options program entry system (COPES) is to:

(a) Prevent unnecessary institutionalization, and

(b) Offer the choice of either institutional or specific Medicaid waiver home and community-based services.

(2) Recipients shall be:

(a) Limited in number as specified by the department;

(b) Identified as eligible for nursing home care; and

(c) Likely to require institutionalization in the absence of the waiver services.

(3) 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.

(4) 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: 1987 1st ex.s. c 7. 87-23-054 (Order 2558), § 388-15-600, filed 11/18/87. 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 shall be 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 feasible written plan of care for COPES services developed and approved by the department. The plan shall be sufficient to safeguard the recipient's health and safety. The total cost for this plan of care, including the one-person medically needy income level, shall be 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: 1987 1st ex.s. c 7. 87-23-054 (Order 2558), § 388-15-610, filed 11/18/87. 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 shall 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.

[Statutory Authority: 1987 1st ex.s. c 7. 87-23-054 (Order 2558), § 388-15-620, filed 11/18/87. 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 three dollars and sixty cents to individual and independent providers, but shall not exceed four dollars and twenty-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-seven 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 shall not exceed the medically needy income level.

[Statutory Authority: 1987 1st ex.s. c 7. 87-23-054 (Order 2558), § 388-15-630, filed 11/18/87. 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.]

RESPIRE CARE SERVICES

WAC 388-15-690 Definitions. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth in this section.

(1) "Adult" means a person 18 years of age or older.

(2) "Caregiver" means a spouse, relative, or friend who has primary responsibility for the care of a functionally disabled adult, who does not receive financial compensation for the care, and who is assessed as being at risk of placing the eligible participant in a long-term care facility if respite care is not available.

(3) "Continuous care" means assistance provided on a daily basis.

(4) "Dementing illness" means an illness characterized by the progressive loss of cognitive ability and increasing dependency on others for performance of the activities of daily living.

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

(6) "Eligible participant" means an adult who:

(a) Needs substantially continuous care or supervision by reason of the person's functional disability; and

(b) Is assessed as requiring institutionalization in the absence of a caregiver assisted by home and community support services, including respite care.

(7) "Functionally disabled" includes requiring assistance in completing activities of daily living and community living skills. It also includes individuals with dementing illnesses or neurological disorders, including traumatic brain injury (TBI).

(8) "Institutionalization" means placement in a long-term care facility.

(9) "Respite care services" means relief care for families or other caregivers of disabled adults, eligibility for which shall be determined by the department by rule. The services provide temporary care or supervision of disabled adults in substitution for the caregiver. The term includes social day care.

(10) "Service provider" means an individual, agency, or organization under contract to the area agency on aging (AAA) or its subcontractor.

(11) "Sliding fee schedule" means a fee schedule developed by the department using the state median income, adjusted for family size, and used to determine share of the cost of respite care services. The amount of the cost of respite care services shared by the eligible participant is a percentage of the total cost of the service as determined by the schedule, graduated to full recovery of the cost of the service provided.

(12) "Social day care" means nonmedical services to persons who live with their families, cannot be left unsupervised, and are at risk of being placed in a 24-hour care facility if their families do not receive some relief from constant care.

(13) "State median income" means that income amount established by the department of health and human services and adjusted to a calendar year basis where one-half of the state's population for a family of four has income above that amount and one-half of the state's population for a family of four has income below that amount.

(14) "Traumatic brain injury (TBI)" means an insult to the brain, not of a congenital nature or related to degenerative or aging processes. It may result from direct or indirect trauma, infection, anoxia, or vascular lesions. It may produce a diminished or altered state of consciousness, which results in impairment of cognitive abilities or physical functioning. It can also result in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functional disability or psychosocial maladjustment.

[Statutory Authority: RCW 74.08.44 [74.08.044]. 88-03-020 (Order 2570), § 388-15-690, filed 1/12/88.]

WAC 388-15-695 Caregiver eligibility. To be eligible to receive respite care services, the caregiver shall:

(1) Have primary responsibility for the care of a functionally disabled adult, including individuals with dementing illnesses, neurological disorders, or traumatic brain injury (TBI); and

(2) Not receive financial compensation for the care; and

(3) Be assessed as being at risk of placing the eligible participant in a long-term care facility if assistance by home and community support services, including respite care, is not available.

[Statutory Authority: RCW 74.08.44 [74.08.044]. 88-03-020 (Order 2570), § 388-15-695, filed 1/12/88.]

WAC 388-15-700 Distribution of cost. (1) The department shall provide for participation by the eligible participant in the cost of respite care services.

(2) The department shall administer a sliding fee schedule, which shall be updated annually, to determine the eligible participant's share of the cost of respite care services.

(3) The department shall determine the eligible participant's income as follows:

(a) If the caregiver and eligible participant are married, all monthly income received in either or both

names shall be combined and one-half of the total shall be considered the participant's income.

(b) If the caregiver is a friend or relative other than the spouse, only the monthly income received by the eligible participant in the participant's name shall be considered the participant's income.

(4) In determining the amount the eligible participant shall pay, the following shall apply:

(a) The department shall not charge the participant if the participant's income is at or below 40 percent of the state median income.

(b) The department shall charge a percentage of the cost of respite care calculated from the sliding fee schedule to participants whose income is between 40 percent and 99 percent of the state median income.

(c) The department shall charge the full cost of respite care services if the participant's income is 100 percent or more of the state median income, as calculated from the sliding fee schedule.

(d) The department shall determine the full cost of respite care by the number of hours or days of service used and the rate of the service, as negotiated between the area agency on aging and the respite care service provider.

[Statutory Authority: RCW 74.08.44 [74.08.044]. 88-03-020 (Order 2570), § 388-15-700, filed 1/12/88.]

WAC 388-15-705 Rates of payment. (1) The department shall not pay respite care service providers more than the rate paid to other service providers for the same level of care.

(2) The department shall pay Medicaid certified nursing homes providing respite care services the Medicaid rate approved for that facility. The rate paid to non-Medicaid certified nursing homes providing respite care services may not exceed the average Medicaid rate in that county. The eligible participant shall pay all charges for services not included in the Medicaid rate.

[Statutory Authority: RCW 74.08.44 [74.08.044]. 88-03-020 (Order 2570), § 388-15-705, filed 1/12/88.]

WAC 388-15-710 Service priorities. (1) To ensure that respite care is made generally available, the department shall establish priorities for service. Requests for respite care which are of an emergent nature shall have first priority. A request for respite care shall be considered an emergency if the caregiver becomes ill or injured to the extent that the caregiver's ability to care for the disabled adult is impaired.

(2) In nonemergency situations, respite care shall be available on a first-come, first-served basis: *Provided*, That sufficient resources are available to fill the requests each month. If respite care cannot be provided when requested, a waiting list shall be used. If a cancellation occurs, respite care shall be made available to those on the waiting list according to the service priority categories shown in WAC 388-15-715.

[Statutory Authority: RCW 74.08.44 [74.08.044]. 88-03-020 (Order 2570), § 388-15-710, filed 1/12/88.]

WAC 388-15-715 Service priority categories. (1) The following service priority categories shall be used when decisions must be made about who can receive services.

Caregiver Situation	How Does Each Statement Correspond to Caregiver's Situation	
	YES	NO
A. Caregiver has documented chronic health problems.	_____	_____
B. Caregiver provides substantial time and attention to other family members.	_____	_____
C. Caregiver has provided care without prior use of a support system.	_____	_____

PRIORITY CATEGORIES

- Priority 1: "Yes" to A, B, & C
- Priority 2: "Yes" to A & B; "No" to C
- Priority 3: "Yes" to A & C; "No" to B
- Priority 4: "Yes" to A; "No" to B & C
- Priority 5: "Yes" to B & C; "No" to A
- Priority 6: "Yes" to B; "No" to A & C
- Priority 7: "Yes" to C; "No" to A & B
- Priority 8: "No" to A, B, & C

(2) Prior use of a support system refers to a caregiver using another type of respite care program, other community-based programs, or receiving assistance from church, family, and friends during the period of time the caregiver is providing continuous care to the functionally disabled adult. A caregiver who meets conditions A, B, and C, under WAC 388-15-715, ranks as a Priority 1. A caregiver who meets conditions B and C only, under WAC 388-15-715, ranks as a priority 5. A caregiver with priority 1 has higher priority to receive respite care services than a caregiver with priority 5. For example:

(a) **PRIORITY 1**

- (i) A. - Has high blood pressure;
- (ii) B. - Is caring for an infant; and
- (iii) C. - Has not used some other assistance program during the period of caring for the disabled adult.

(b) **PRIORITY 5**

- (i) B. - Does spend time caring for other family members; and
- (ii) C. - Has not used another support system during the period of caring for the disabled adult.

[Statutory Authority: RCW 74.08.44 [74.08.044]. 88-03-020 (Order 2570), § 388-15-715, filed 1/12/88.]

**Chapter 388-17 WAC
SENIOR CITIZENS SERVICES PROGRAM**

WAC

388-17-500 Local area agency on aging contracts—Administrative review process.

388-17-510 Area agency on aging plan—Administrative review process.

WAC 388-17-500 Local area agency on aging contracts—Administrative review process. (1) Local area agencies on aging shall establish a complaint resolution process. A service contract applicant or provider of services under a contract with a local area agency on aging who is aggrieved by an action of the local area agency shall attempt to resolve the grievance through the complaint resolution process.

(2) A service contract applicant or provider of services under a contract with a local area agency on aging has the right to an administrative hearing. Only those issues raised at the complaint resolution procedure can be appealed to an administrative hearing. The administrative hearing shall be governed by the Administrative Procedure Act (chapter 34.04 RCW) and chapter 10-08 WAC; and the provisions of chapter 388-08 WAC that do not conflict with this section.

(3) To make a request for an administrative hearing, a service contract applicant or provider shall file a written appeal with the department's office of administrative regulations and hearings. The appeal shall be filed within thirty days of the date the local agency on aging mailed the complaint resolution determination to the service contract applicant or recipient. A copy of the appeal shall be sent to the local area agency. The appeal shall:

(a) State specifically the issue or issues and regulation or regulations involved and the basis for considering the complaint resolution determination to be in error.

(b) Include any supporting documentation.

(c) Include a copy of the complaint resolution determination being appealed.

(4) The department has the right to intervene in any administrative hearing. To intervene, the department shall:

(a) File a written notice of intervention with the office of administrative regulations and hearings or the presiding officer.

(b) Serve a copy of the notice to the parties.

(c) Include in the notice the name, address, and telephone number of the department employee and/or assistant attorney general who represents the department.

(5) After the administrative law judge has made a record, he or she shall make an initial decision (or order dismissing the appeal as withdrawn or abandoned). See WAC 10-08-210. The parties have the right to file a petition for administrative review against an initial decision (or order of dismissal). See WAC 388-08-409 and 388-08-413.

[Statutory Authority: RCW 70.38.030, 87-03-015 (Order 2458), § 388-17-500, filed 1/13/87.]

WAC 388-17-510 Area agency on aging plan—Administrative review process. (1) An area agency on aging aggrieved by an action of the department regarding a plan submitted under the provisions of the Older Americans Act has the right to an administrative hearing. The hearing shall be governed by the Administrative

Procedure Act (chapter 34.04 RCW) and chapter 10-08 WAC; and the provisions of chapter 388-08 WAC that do not conflict with this section.

(2) To make a request for an administrative hearing, an area agency on aging shall file a written appeal with the department's office of administrative regulations and hearings. The appeal shall be filed within thirty days of the date the department first gave notice of the aggrieving action to the area agency. A copy of the appeal shall be sent to the unit of the department which gave notice of the aggrieving action to the area agency. The notice shall:

(a) State specifically the issue or issues and regulation or regulations involved and the basis for considering the aggrieving action to be in error.

(b) Include any supporting documents.

(3) The administrative decision-making procedure is the initial decision-petition for administrative review-decision process. See WAC 388-08-409 and 388-08-413.

[Statutory Authority: RCW 70.38.030, 87-03-015 (Order 2458), § 388-17-510, filed 1/13/87.]

Chapter 388-19 WAC

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

WAC

388-19-005	Description of WIC program.
388-19-015	Authorized foods.
388-19-020	Food vendor participation.
388-19-025	Food vendor contracts.
388-19-030	Food vendor monitoring.
388-19-035	Food vendor sanctions.
388-19-040	Notice of adverse action to WIC food vendor—Denial of food vendor application, contract nonrenewal.
388-19-045	WIC food vendor—Administrative review—Contract dispute resolution.
388-19-050	WIC contractor—Continued participation pending contract dispute resolution.

WAC 388-19-005 Description of WIC program. (1) The WIC program is a federally funded program established by the Child Nutrition Act of 1966. The purpose of the program is to provide nutritious food; nutrition education and counseling; and referral services to women, infants, and children in certain high-risk categories.

(2) Federal regulations governing the WIC program (7 CFR Part 246) require implementation of standards and procedures to guide the state's administration of the WIC program and are hereby incorporated. These regulations are designed to promote consistent and high quality services to clients, promote consistent application of procedures for eligibility and food issuance, and lessen the possibility of participant, food vendor, and local agency abuse of the WIC program. These regulations define the rights, responsibilities, and legal procedures of participants, vendors, and local agencies.

(3) The WIC program in the state of Washington is administered by the department of social and health services. As used in this chapter, "department" means

the department of social and health services; "food vendor" means grocers and pharmacists; and "food instrument" means check or voucher.

[Statutory Authority: RCW 43.20A.550. 88-14-037 (Order 2638), § 388-19-005, filed 6/30/88.]

WAC 388-19-015 Authorized foods. (1) The department shall provide one or more of the following foods to eligible women, infants, and children:

- (a) Cereals,
- (b) Juices,
- (c) Infant formula,
- (d) Infant cereal,
- (e) Milk,
- (f) Eggs,
- (g) Dry beans and peas,
- (h) Peanut butter, and
- (i) Cheese.

These foods shall meet nutritional standards established by federal regulations.

(i) The department shall approve specific brands of infant formula, juice, and cereal based on federal nutritional requirements. In addition, the department specifies juice provided to WIC clients must be unsweetened; and

(ii) The department shall designate specific types of domestic, pasteurized cheese for the WIC program.

(2) A copy of the authorized WIC food list shall be included in the annually revised state plan which is available for public comment and is submitted to the United States Department of Agriculture Food and Nutrition Services regional office.

(3) The following steps have been established by the department as the formal procedure for adding a food product to the WIC program:

(a) A food company or other entity, such as a local WIC clinic, shall submit a written request for authorization of a product;

(b) The food company representative shall furnish the state WIC office with package flats or labels, information on package sizes and prices, and a summary of current distribution. This information must be received at least ninety days prior to WIC food instrument revision deadlines. These revisions occur approximately twice a year, depending on the need for replenishing the supply;

(c) If the product meets federal and state requirements, the department shall verify product availability and price;

(d) The nutrition education work group of the office of parent and child health services shall make its recommendation based on the product's ingredients and its value to the promotion of healthful and economic food buying practices;

(e) The department shall survey local WIC clinics for their recommendation in regard to need and demand for the product;

(f) The department shall review data and recommendations and shall notify the food company of its decision;

(g) The department shall add the newly authorized food item to the WIC food instrument at the next scheduled printing.

(4) Any food products being considered for addition to the authorized WIC food list shall be on the shelves of retail outlets, statewide, by the time revisions are submitted for printing new food instrument stock.

(5) The department reserves the right to require a food company to submit a statement guaranteeing a minimum period of time during which a food product will be available throughout the state of Washington.

(6) The department reserves the right to refuse any food product that appears to be in contradiction to the principles promoted by the WIC program's nutrition education component.

(7) The department reserves the right to limit the number of authorized foods within a food category.

[Statutory Authority: RCW 43.20A.550. 88-14-037 (Order 2638), § 388-19-015, filed 6/30/88.]

WAC 388-19-020 Food vendor participation. (1) The department shall authorize food vendors who may redeem WIC food instruments or otherwise provide supplemental foods to WIC participants. Unauthorized vendors who redeem WIC food instruments are subject to the penalties specified in WAC 388-19-035.

(2) Application procedure.

(a) Food vendors shall submit an application to the department, including a price list for authorized WIC food. Forms used in the application process are contained in the state plan which is submitted annually to the United States Department of Agriculture Food and Nutrition Services regional office.

(b) The department may require vendor applicants to provide information regarding gross food sales and inventory records for WIC-approved foods.

(c) The department shall conduct a documented on-site visit prior to, or at the time of, initial authorization of a new vendor, for the purpose of evaluating the inventory of WIC foods and providing training in rules and regulations of WIC transactions.

(d) The department shall issue contracts for a maximum period of two years. All contracts expire on December 31 of even-numbered years. No new applications will be accepted after July 1 in even-numbered years, except in the case of an ownership change at a location where there is a documented need. The department has the authority to limit acceptance of new applications to other specific times as well.

(3) The department shall authorize an appropriate number and distribution of food vendors to assure adequate participant convenience and access, and to assure the department can effectively manage review of these vendors. The department has the authority to limit the number of authorized food vendors in any given geographic area or statewide. Selection is based on the following conditions:

(a) At least six WIC participants shall request a food vendor location unless the vendor is a:

(i) Pharmacy needed as a supplier of special infant formulas; or

(ii) Retail grocery store in an isolated area.

In either case, the need shall be documented by the local WIC agency.

(b) Food vendors shall stock representative items from all food categories on the authorized WIC food list that apply to the vendor's classification. No waivers shall be granted unless there is an insufficient number of authorized vendors in a given service area. Minimum quantities specified on the authorized WIC food list shall be stocked before a contract is offered to the food vendor;

(c) Prices of individual food items shall not exceed one hundred twenty percent of the statewide average price;

(d) The food vendor shall possess a valid Washington state tax registration number;

(e) The food vendor shall be willing to submit to monitor visits and to provide invoices and shelf prices upon request;

(f) The store shall be open for business at least eight hours per day, six days per week.

(4) The department shall give written notification of denial, stating the reason, and advising the food vendor of the vendor's right of appeal. The department may deny authorization to a:

(a) Food vendor who has redeemed WIC food instruments without authorization; or

(b) Store which has had more than two owners during a two-year contracting period; or

(c) Food vendor who has not implemented corrective action imposed by the department as a result of a monitoring visit; or

(d) Food vendor who has not completed payment of an imposed fine.

[Statutory Authority: RCW 43.20A.550, 88-18-022 (Order 2681), § 388-19-020, filed 8/30/88; 88-14-037 (Order 2638), § 388-19-020, filed 6/30/88.]

WAC 388-19-025 Food vendor contracts. (1) All participating food vendors shall enter into written contracts with the department. The contract shall be signed by the vendor's legal representative.

(2) When the food vendor obligates more than one outlet, there shall be an individual contract for each outlet; individual outlets may be added, temporarily disqualified, or terminated without affecting the remaining outlets.

(3) The department shall have the authority to contract with a sole source for a specified WIC food product or food product category.

(4) WIC vendor rules. The food vendor contract shall contain the following rules:

(a) The food vendor shall stock sufficient quantities of authorized WIC foods to meet the needs of WIC customers;

(b) The food vendor shall redeem WIC food instruments for only the supplemental foods specified on the food instrument;

(c) The food vendor shall provide supplemental foods at the current price or at less than the current price charged other customers;

(d) The food vendor shall accept food instruments from a WIC customer within thirty days of the issuance date and submit those instruments for payment within the time period stated on the food instrument;

(e) The department has the right to demand refunds from the food vendors for overcharges;

(f) The department may deny payment to the food vendor for improper food instruments or may demand refunds for payments already made on improper food instruments. An example of an improper food instrument is one presented to the vendor for redemption after the thirty-day valid period;

(g) The food vendor shall not seek restitution from WIC customers for food instruments not honored by the WIC program;

(h) The manager of the store or an authorized representative such as head cashier shall agree to accept training on WIC program requirements and procedures. The department shall provide this training;

(i) The food vendor shall inform and train cashiers or other employees on WIC program rules and check cashing procedures;

(j) The department shall hold the food vendor responsible for the actions of employees or agents of the vendor with regard to any WIC transaction;

(k) The food vendor shall redeem food instruments made payable only to that specific store or with the words "any authorized WIC vendor;"

(l) The food vendor shall treat WIC customers with the same courtesy provided to other customers;

(m) The department shall monitor the food vendor for compliance with WIC program rules;

(n) During the department monitoring visit of a food vendor, the food vendor shall provide access to food instruments negotiated the day of the review, at the request of the department reviewer;

(o) Food vendors shall provide department reviewers access to shelf price records;

(p) Each food vendor shall provide the department with a complete price list of authorized WIC foods at least once a year;

(q) The food vendor shall notify the department of any store closure or change of ownership, store name, and/or location no later than the tenth of the month prior to the month during which the change will be effective. Notices from the vendor shall be addressed to DSHS WIC Program, Mail Stop LC-12C, Olympia, Washington 98504; and

(r) The food vendor shall require proof of identity of WIC customers by requesting their WIC identification cards.

(5) Renewal of contract.

(a) Neither the department nor the food vendor is obligated to renew the food vendor contract. The department shall provide vendors with not less than fifteen days advance written notice of the expiration of a contract not being renewed by the department.

(b) Food vendors shall observe time lines, such as deadlines for submitting price lists and returning properly signed contracts. Failure of vendors to do so may result in denial of authorization.

(6) Contract terminations.

(a) Either the department or the food vendor may terminate the contract by submitting a written notice to the other party thirty days in advance.

(b) The food vendor contract shall automatically be terminated without advance notice from the department in the event of a store closure or change in ownership.

[Statutory Authority: RCW 43.20A.550. 88-14-037 (Order 2638), § 388-19-025, filed 6/30/88.]

WAC 388-19-030 Food vendor monitoring. (1) The department shall identify high-risk vendors and ensure on-site monitoring, further investigation, and sanctioning of such vendors. Criteria for identifying high-risk vendors shall include, but not be limited to, such considerations as participant complaints and the amount or frequency of suspected overcharges on redeemed food instruments.

(2) The department shall conduct on-site monitoring visits to at least ten percent of authorized vendors per year. The department shall select the vendors on a representative basis, in order to survey the types and levels of abuse and errors among participating food vendors. Vendors shall take correction action as directed by the department.

(3) The department shall submit a summary of the results of the monitoring of high-risk and representative food vendors and of the review of food instruments to USDA food and nutrition service on an annual basis within four months after the end of the federal fiscal year.

(4) The department shall document the following for all on-site vendor monitoring visits:

- (a) Names of both vendor and reviewer;
- (b) Date of review;
- (c) Nature of problem or problems detected or observation that the food vendor appears to be in compliance with program requirements;
- (d) How the food vendor plans to correct deficiencies detected; and
- (e) Signature of reviewer.

(5) Methods of on-site monitoring visits include, but are not limited to:

- (a) Compliance purchases;
- (b) Review of cashier check-out procedures;
- (c) Review of inventory records;
- (d) Review of the availability and prices of authorized WIC foods; and
- (e) Review of food instruments.

(6) The department may conduct compliance purchases to collect evidence of improper vendor practices, or arrange for this responsibility to be assumed by the proper state or local authorities.

(7) The department shall establish procedures to document the handling of complaints by participants against food vendors. The department shall deal with complaints of civil rights discrimination in accordance with 7 CFR 246.8(b).

[Statutory Authority: RCW 43.20A.550. 88-14-037 (Order 2638), § 388-19-030, filed 6/30/88.]

WAC 388-19-035 Food vendor sanctions. (1) The department may disqualify a food vendor for reasons of program abuse, and suspend the vendor's participation in the WIC program for a specified period of time. At the

end of the disqualification period, the vendor shall be required to reapply for authorization.

(2) Food vendors may be subject to sanctions in addition to, or in lieu of, disqualification, such as monetary claims for improper or overcharged food instruments. Prior to disqualifying a food vendor, the department shall consider whether the disqualification would create undue hardships for WIC participants.

(3) The department shall set the period of disqualification from program participation at a minimum of one year and shall not exceed three years. The maximum period of disqualification shall be imposed only for flagrant or repeated program abuse. The department may, at its option, issue a warning letter to the food vendor before a disqualification is imposed.

(4) The department shall disqualify a food vendor from the WIC program if that vendor is suspended or disqualified from another FNS program.

(5) The department shall recover funds due the WIC program and impose monetary fines of not less than one hundred dollars on food vendors for the offenses in subsection (5) of this section. The department shall deposit these funds into the WIC account in accordance with federal regulations.

Money shall be paid to the department within the time period specified in the notification of adverse action or the vendor shall be suspended from the WIC program for a period of at least one year. Offenses include:

- (a) Providing cash, unauthorized food, or other items to WIC customers in lieu of authorized WIC supplemental foods;
- (b) Charging the WIC program for foods not received by the customer;
- (c) Charging the WIC program more for authorized WIC supplemental foods than other customers are charged for the same food item;
- (d) Providing rain checks or other credit to customers in a WIC transaction;
- (e) Charging WIC customers cash in a WIC transaction; and
- (f) Redeeming WIC checks without having authorization from the department.

Repeating any offense listed in subsection (5) of this section would subject a vendor to a one-year disqualification.

(6) A food vendor who fails to give the specified notice of a change in ownership, store name, and/or location shall be liable for resultant costs incurred by the WIC program. In addition, a food vendor who fails to furnish the state WIC office with written notice of a change in ownership prior to the effective date of sale shall be subject to a monetary fine of not less than one hundred dollars.

(7) Failure to maintain a sufficient stock of WIC authorized foods or to follow the appropriate WIC check cashing procedure may result in a one-year disqualification.

(8) Food vendors who have willfully misapplied, stolen, or fraudulently obtained program funds shall be subject to a fine of not more than one thousand dollars or imprisonment for not more than five years or both, if

the value of the funds is one hundred dollars or more. If the value is less than one hundred dollars, the penalties are a fine of not more than one thousand dollars or imprisonment for not more than one year or both. The department shall refer these vendors to federal, state, or local authorities for prosecution under applicable statutes.

[Statutory Authority: RCW 43.20A.550. 88-14-037 (Order 2638), § 388-19-035, filed 6/30/88.]

WAC 388-19-040 Notice of adverse action to WIC food vendor--Denial of food vendor application, contract nonrenewal. (1) When the department denies a food vendor's application to participate in the WIC program or denies a contractor's application to renew the contract, the denial shall be in writing. The notice shall state the basis for the denial.

(2) When the department proposes to take an adverse action against a food vendor with whom the department has a contract, the department shall give the contractor a written notice. The notice shall:

- (a) State the cause for the action;
- (b) State the effective date of the action; and
- (c) Be provided to the contractor not less than fifteen days in advance of the effective date of the action.

[Statutory Authority: RCW 43.20A.550. 88-14-037 (Order 2638), § 388-19-040, filed 6/30/88.]

WAC 388-19-045 WIC food vendor--Administrative review--Contract dispute resolution. (1) Administrative review.

(a) A food vendor whose application to participate in the WIC program is denied has the right to administrative review which is an informal meeting with the vendor to discuss the facts related to the denial.

(b) A request for an administrative review shall be in writing and:

- (i) State the issue raised;
- (ii) State the grounds for contesting the aggrieving department action;
- (iii) State the law and allegations of fact on which the appeal relies;
- (iv) Contain the appellant's current address and telephone number, if any; and
- (v) Have a copy of the adverse department notice attached.

(c) A request for an administrative review shall be made by personal service on the office of parent-child health services headquarters office or by certified mail addressed to the Office of Parent-Child Health Services, Mail Stop LC-12C, Olympia, Washington 98504. The request shall be made within thirty days of the date the vendor received the notice of adverse action. When the request is mailed, it shall be treated as having been made on the date it was postmarked provided it is received by the office of parent-child health services properly addressed and with no postage due.

(d) The chief, office of parent-child health services, or the chief's designee, shall conduct the administrative review. The time limit for making the determination is

thirty days from the date the request for an administrative review was received by the office. The time shall be extended by as many days as the vendor requests, assents to, or causes a delay in the proceedings.

(e) Administrative review is the sole administrative remedy the department offers a food vendor WIC contract applicant.

(2) Contract dispute resolution.

(a) A WIC food vendor who is disqualified from participating in the program or who is aggrieved by any other adverse action the department takes which affects participation, has the right to a dispute resolution. This shall not apply to a nonrenewal of the contract.

(b) A request for a dispute resolution shall be in writing and:

- (i) State the issue raised;
- (ii) State the grounds for contesting the aggrieving department action;
- (iii) State the law and allegations of fact on which the appeal relies;
- (iv) Contain the contractor's current address and telephone number, if any; and
- (v) Have a copy of the adverse department notice attached.

(c) A request for a dispute resolution shall be made by personal service on the office of contracts management in Olympia or by certified mail addressed to the Office of Contracts Management, Mail Stop OB-22N, Olympia, Washington 98504. The request shall be made within thirty days of the date the contractor received the notice of adverse action. When the request is mailed, it shall be treated as having been made on the date it was postmarked provided it is received by the office of contracts management properly addressed and with no postage due.

(d) The time limit for making the determination is thirty days from the date the request for a dispute resolution was received by the office of contracts management. The time shall be extended by as many days as the contractor requests, assents to, or causes a delay in the proceedings.

(e) The contract dispute resolution is the sole administrative remedy the department offers a WIC contractor.

[Statutory Authority: RCW 43.20A.550. 88-18-022 (Order 2681), § 388-19-045, filed 8/30/88; 88-14-037 (Order 2638), § 388-19-045, filed 6/30/88.]

WAC 388-19-050 WIC contractor--Continued participation pending contract dispute resolution. (1) If the action being appealed is a temporary disqualification of a WIC authorized vendor, that vendor shall cease redeeming WIC checks effective on the date specified in the sanction notice. The vendor shall not accept WIC food instruments during the appeal period. Payment shall not be made for any food instruments accepted by a vendor during a period of disqualification.

(2) The department may in its discretion permit the contractor to continue participating in the WIC program pending the proceedings when implementing the action would unduly inconvenience WIC participants.

[Statutory Authority: RCW 43.20A.550. 88-18-022 (Order 2681), § 388-19-050, filed 8/30/88; 88-14-037 (Order 2638), § 388-19-050, filed 6/30/88.]

Chapter 388-24 WAC
AID TO FAMILIES WITH DEPENDENT CHILDREN--ELIGIBILITY

WAC

- 388-24-040 Aid to families with dependent children—Summary of eligibility conditions.
- 388-24-050 Aid to families with dependent children—Assistance unit.
- 388-24-055 Aid to families with dependent children—regular—Deprivation of parental support or care.
- 388-24-065 Aid to families with dependent children—Deprivation due to incapacity.
- 388-24-070 Aid to families with dependent children—regular—Deprivation due to continued absence from home.
- 388-24-074 Aid to families with dependent children—employable—Deprivation due to unemployment of a parent.
- 388-24-090 Eligibility conditions applicable to AFDC—Employment or training.
- 388-24-107 Eligibility conditions applicable to AFDC-R and AFDC-E—Registration and participation in employment programs.
- 388-24-108 Eligibility conditions applicable to AFDC—Assignment of rights to support.
- 388-24-111 Good cause not to cooperate with support enforcement.
- 388-24-125 Eligibility conditions applicable to AFDC—Living with a relative of specified degree.
- 388-24-137 Repealed.
- 388-24-250 Consolidated emergency assistance program—Conditions of eligibility.
- 388-24-253 Exempt income and resources for CEAP.
- 388-24-254 Determining income for CEAP.
- 388-24-255 Consolidated emergency assistance program (CEAP)—Financial need and benefit amounts.
- 388-24-260 Consolidated emergency assistance program—Payments.
- 388-24-265 Consolidated emergency assistance program (CEAP)—Assistance units.
- 388-24-270 Repealed.
- 388-24-276 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-24-137 Continuation of assistance when deprivation ceases. [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.] Repealed by 88-24-009 (Order 2731), filed 11/30/88. Statutory Authority: RCW 74.08.090.
- 388-24-270 Consolidated emergency assistance program (CEAP)—Grant standards. [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.] Repealed by 87-13-077

(Order 2503), filed 6/17/87. Statutory Authority: RCW 74.04.660.

- 388-24-276 Application. [Statutory Authority: RCW 74.08.090. 81-20-009 (Order 1704), § 388-24-276, filed 9/25/81.] Repealed by 87-13-077 (Order 2503), filed 6/17/87. Statutory Authority: RCW 74.04.660.

WAC 388-24-040 Aid to families with dependent children—Summary of eligibility conditions. The department shall grant AFDC on behalf of a needy child who:

- (1) Is living in the home of a relative of specified degree. For temporary absences, see WAC 388-24-207 and 388-24-125;
- (2) Is a citizen or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States (see WAC 388-26-120);
- (3) Is in financial need (see chapters 388-28 and 388-33 WAC);
- (4) Is a resident of the state of Washington, or resides with a parent or other relative who is a resident of the state of Washington (see WAC 388-26-055 through 388-26-105 and WAC 388-24-125);
- (5) Is deprived of parental care and support because of death, continued absence, unemployment, or incapacity of a parent or stepparent. A parent is a person acknowledging parentage and meeting the criteria in the Uniform Parentage Act (see WAC 388-24-055 through 388-24-074);
 - (6) Meets the following age requirements:
 - (a) Is under eighteen years of age; or
 - (b) Is under nineteen years of age and 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 the child reaches age nineteen; or
 - (c) Is unborn and there are no other eligible children in the household. In this case, the department grants AFDC only to the unborn's mother, provided:
 - (i) There is medical conformation the woman is in the third trimester of pregnancy (the three calendar months preceding the expected month of birth); and
 - (ii) If such child was born and residing in the same household as the woman, in the month of payment, they would otherwise be eligible for aid to families with dependent children.

[Statutory Authority: RCW 74.08.090. 88-09-039 (Order 2621), § 388-24-040, filed 4/15/88; 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 388-24-050 Aid to families with dependent children--Assistance unit. (1) Except as specified in subsection (4) of this section, the department shall include, in a single assistance unit, the following persons living together:

(a) A woman in her third trimester of pregnancy who has no other child; or

(b) The child(ren), including all full or half brothers and sisters of such a child(ren); and

(c) The parent(s) or stepparent(s) with whom the child(ren) lives; and

(d) A minor parent's parent who claims to be the needy caretaker relative of:

(i) The minor parent,

(ii) The minor parent's child, or

(iii) The minor parent's full or half brother or half sister.

(2) Except as specified in subsection (4) of this section, the department may include in the assistance unit at the option of the family:

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

(b) The stepbrothers or stepsisters of a child included in the assistance unit, except as required in subsection (1) of this section; or

(c) Needy eligible nonsibling children.

(3) The department shall authorize only one assistance unit grant for all needy eligible siblings and nonsiblings living with a single caretaker relative or relative married couple.

(4) The department shall exclude from the assistance unit those persons ineligible due to factors not related to need. Exclusions include, but are not limited to:

(a) A recipient of SSI benefits;

(b) An alien not meeting the citizenship and alienage requirements (see WAC 388-26-120); and

(c) A person under sanction for noncooperation with:

(i) The OPPORTUNITIES program (see WAC 388-24-107); or

(ii) The department's office of support enforcement (see WAC 388-24-108 and 388-24-109).

[Statutory Authority: RCW 74.08.090. 88-24-009 (Order 2731), § 388-24-050, filed 11/30/88; 88-09-039 (Order 2621), § 388-24-050, filed 4/15/88; 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.]

WAC 388-24-055 Aid to families with dependent children--regular--Deprivation of parental support or care. (1) "Parent" as used in this and following sections means a natural or adoptive parent or stepparent.

(2) A child deprived of parental support or care may or may not be in financial need. The department shall determine need as a separate factor.

(3) The department shall determine deprivation of a child of unmarried parents the same as a child of married parents.

(4) The department shall consider a child, living with a parent and a nonrelated adult, as deprived due to the absence or death of the other parent. The support from the nonrelated adult to the child is a financial need factor only - see WAC 388-28-355.

(5) When deprivation due to death, absence, incapacity, or unemployment ceases and the child remains in need, the department shall determine if another basis for deprivation exists. If no other basis exists, the department shall terminate assistance at the end of the calendar month in which deprivation ends.

[Statutory Authority: RCW 74.08.090. 88-24-009 (Order 2731), § 388-24-055, filed 11/30/88; 85-18-041 (Order 2275A), § 388-24-055, filed 8/30/85; 83-22-066 (Order 2033), § 388-24-055, filed 11/2/83; 78-10-036 (Order 1338), § 388-24-055, filed 9/18/78; Order 1001, § 388-24-055, filed 1/14/75; Order 597, § 388-24-055, filed 9/1/71; Order 530, § 388-24-055, filed 3/31/71, effective 5/1/71; Regulation 6.221, filed 8/29/66; Regulation 6.221, filed 12/31/65.]

WAC 388-24-065 Aid to families with dependent children--Deprivation due to incapacity. (1) The department shall consider a child deprived of parental support and care due to parental incapacity when:

(a) The child lives with two parents or one parent and one stepparent; and

(b) One or both parents are substantially incapacitated.

(2) The physical or mental incapacity of a parent shall be:

(a) Supported by competent medical evidence; and

(b) Expected to last at least thirty days; and

(c) Of such a debilitating nature as to substantially reduce or eliminate the parent's ability to support or care for the child. In making the determination of ability to support, the department shall consider:

(i) The limited employment opportunities of the handicapped parent;

(ii) The reason employers refuse to employ the parent for work the parent could do including behavioral disorders or impairments that interfere with securing and maintaining employment;

(iii) Limitations that prevent the parent from working full time at a job he or she has been customarily engaged in or is equipped for by education, training, or experience or can be learned by on-the-job training;

(iv) If the parent, even though working full time, is paid on a reduced basis for accomplishing less on a job as a regular employee;

(v) If the parent qualifies for, and is placed in, a non-competitive full-time job which is rehabilitative, therapeutic, or in a sheltered workshop; and

(vi) 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. Inability to understand, remember, follow instructions, or communicate appropriately with others may be sufficient to establish incapacity.

(3) The department shall consider medical evidence as follows:

(a) The primary source for a physical incapacity shall be a written report from:

(i) A physician;

(ii) A certified registered nurse (CRN) within area of certification; or

(iii) The chief of medical administration, or designee, of the Veterans' Administration.

(b) The primary source for mental incapacity shall be a report from:

(i) A psychiatrist;

(ii) A clinical psychologist;

(iii) A mental health professional designated by the local community mental health agency as defined in RCW 71.05.020; or

(iv) A physician at the department's discretion.

(c) The primary sources for incapacity due to alcoholism or drug addiction shall be any of those listed in subsection (3)(a) and (b) above;

(d) Supplemental sources of evidence include:

(i) A chiropractor;

(ii) Nurse;

(iii) Physician's assistant; or

(iv) DSHS institution or agency the parent has received services from.

(e) Evidence shall include:

(i) A diagnosis and prognosis for the incapacitating condition; and

(ii) The effect of the condition on the individual's ability to function; and

(iii) Relevant medical history and documentation to support a conclusion of incapacity.

(f) The department shall review medical evidence and complete an objective appraisal of all factors relevant to the parent's situation. These include age, emotional health, aptitudes, adjustment to the incapacity, family circumstances, employment history, education, and ability to carry out responsibilities of employment or homemaking. Social or educational deficiencies do not establish incapacity but may impact the parent's ability to overcome an incapacity.

(4) To determine deprivation based on incapacity, the department shall:

(a) Confirm or deny the existence of incapacity within thirty days of the date of application, except in circumstances beyond the control of the agency;

(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, related to the prognosis, which is supported by medical evidence. Duration shall not exceed twelve months without a re-determination of incapacity;

(e) Deny eligibility if the parent fails to cooperate in obtaining medical evidence for incapacity;

(f) Pay the cost of necessary medical reports, provided payment for such reports shall not be made to DSHS agencies;

(g) Establish incapacity without further medical documentation if the parent is eligible for veterans' benefits

based on disability of at least fifty percent or for any Social Security Administration disability benefit.

(5) The department shall require the incapacitated parent accept referrals for evaluation and available medical treatment, which include medical, surgical, psychiatric therapy, treatment in an alcoholism or drug treatment center, or any combination thereof.

(a) If a parent, whose incapacity deprives a child of parental support or care, refuses without good cause to accept available medical treatment which would reasonably be expected to render the parent employable, the department shall remove that parent's needs from the grant.

(b) The department shall determine if the recommended treatment can be expected to restore or substantially improve the parent's ability to carry out the responsibilities of employment or homemaking.

(c) The department shall determine the parent is justified in refusing recommended medical treatment if the refusal is based on one or more of the following conditions:

(i) The parent is genuinely fearful of undergoing the treatment even if the fear seems to be unrealistic or irrational;

(ii) The parent could lose a faculty, or use of a faculty, and refuses to accept the risk;

(iii) The parent will not accept treatment because of religious scruples;

(iv) The parent is unable to participate in treatment due to another incapacity.

[Statutory Authority: RCW 74.08.090, 88-24-009 (Order 2731), § 388-24-065, filed 11/30/88; 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. (1) The department shall determine whether a child is deprived of parental support or care due to the absence of a child's parent.

(2) The department shall determine deprivation due to the continued absence of a parent, regardless of legal marital status, when:

(a) The parent is living out of the home in which the child resides; or

(b) The absence interrupts or terminates the parent's functioning as a provider of:

(i) Maintenance at least equal to the child's prorated share of the monthly need standard for the number of persons in the child's assistance unit as specified in WAC 388-29-100; or

(ii) Physical care; or

(iii) Guidance for the child; and

(c) The absence precludes the parent's involvement in planning for the present support or care of the child.

(3) The department shall disregard the assumption in subsection (2)(a) that parental functioning is interrupted only if the absent parent routinely visits the child, and continuously provides all elements of parental functioning.

(4) The department shall document reduction of one or more of the elements of parental care to establish deprivation. The following definitions shall apply:

(a) "Maintenance" means the financial support and in-kind contributions paid directly to the child's household, including:

- (i) Child support,
- (ii) Food,
- (iii) Clothing, and
- (iv) Other necessities.

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

- (i) Providing clean clothing and dressing the child;
- (ii) Preparing meals and feeding;
- (iii) Supervising bedtime; and
- (iv) 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 including, but not limited to:

- (i) Accompanying to doctor visits;
- (ii) Attending school conferences;
- (iii) Disciplining; and
- (iv) Participating in decisions concerning the child's well-being and extracurricular activities.

(4) The department shall not establish deprivation due to absence if:

(a) The reason for the parent's absence is due solely to serving on active duty in the uniformed military services of the United States; or

(b) For applicants, 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. However, 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, but not for the month following.

(c) For recipients, after the first two months of eligibility, the department determines an absent parent will return to the home. Deprivation due to absence ceases the end of the month in which the parent returns to the home.

(5) The department shall consider deprivation due to continued absence 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, and:

(a) Shall not include the needs of the convicted parent in the determination of eligibility or the payment of financial assistance; and

(b) Shall treat earned income outside of the hours of sentenced unpaid work or community service in accordance with WAC 388-28-500.

(6) The department shall assume, when a nonresponsible relative applies on behalf of a child who was not placed in custody through a court order, and whose parent though able has failed to support the child, that apparent abandonment exists and shall apply policies outlined in WAC 388-24-114.

[Statutory Authority: RCW 74.08.090, 88-24-009 (Order 2731), § 388-24-070, filed 11/30/88; 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. (1) The department shall consider a child to be deprived of parental care and support due to the unemployment of a parent when the child lives with two parents, one of which meets all the requirements in this section.

(2) The department shall designate the qualifying parent as that parent who earned the greater amount of income in the twenty-four-calendar-month period immediately preceding the month the application for assistance is filed.

(a) The department shall designate the qualifying parent using the best evidence available, and

(b) Consider the earnings of both parents regardless of when the relationship began, and

(c) Continue the designation 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 department shall designate the qualifying parent.

(3) The department shall consider a parent to be unemployed when the parent:

(a) Is employed less than one hundred hours a month; or

(b) Exceeds this standard for a particular month if the excess is of a temporary nature evidenced by being under the one hundred hour standard for the two prior months and is expected to be under the standard during the next month.

(4) The qualifying parent shall be unemployed as defined in subsection (3) of this section for at least thirty days prior to the date AFDC-E is authorized except when:

(a) AFDC-E is terminated due to employment of the qualifying parent; and

(b) The full-time employment ends within thirty days of termination; and

(c) The qualifying parent reapplies and is found otherwise eligible for AFDC-E.

(5) The qualifying parent shall not have, during the same thirty-day period:

- (a) Refused a bona fide offer of employment; or
- (b) Refused training for employment; or
- (c) Voluntarily left a job without good cause; or
- (d) If eligible, refused to apply for or accept unemployment compensation.

(6) The qualifying parent:

- (a) Shall be registered for the WIN program;
- (b) If exempt from OPPORTUNITIES participation due to remoteness, shall be registered for employment with the local DES office; and

(c) Shall not be ineligible due to participation in institutional and work experience training or in public service employment under the OPPORTUNITIES program.

(7) The qualifying parent:

(a) Shall have 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 the parent earned income of at least fifty dollars, or participated in the work incentive (WIN) program or community work experience program (CWEP). A "calendar quarter" means three consecutive months ending March 31st, June 30th, September 30th, or December 31st; or

(b) Within one year prior to the application the qualifying parent received or had such a work history to be eligible to receive unemployment compensation.

[Statutory Authority: RCW 74.08.090. 88-24-009 (Order 2731), § 388-24-074, filed 11/30/88. Statutory Authority: Chapter 74.04 RCW. 88-06-084 and 88-07-056 (Orders 2601 and 2601A), § 388-24-074, filed 3/2/88 and 3/14/88. 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. (1) All AFDC applicants and recipients shall be subject to WIN registration and OPPORTUNITIES participation as provided in WAC 388-24-107.

(2) A WIN registrant failing to cooperate in appraisal prior to certification shall be subject to [the] provisions of chapter 388-57 WAC, unless:

(a) He or she is exempt from OPPORTUNITIES participation,

(b) He or she has not been notified of nonexempt status for OPPORTUNITIES participation,

(c) An OPPORTUNITIES program volunteer participant.

(3)(a) An AFDC recipient 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 chapter 388-57 WAC, unless:

(i) He or she is exempt from OPPORTUNITIES participation,

(ii) He or she has not yet been notified of nonexempt status for OPPORTUNITIES participation,

(iii) An OPPORTUNITIES program volunteer participant.

(b) An AFDC applicant or recipient determined by DSHS to have refused employment or participation in

the ESP or CWEP programs without good cause shall be subject to provisions of chapter 388-57 WAC, unless:

(i) He or she is exempt from OPPORTUNITIES participation,

(ii) He or she has not yet been notified of nonexempt status for OPPORTUNITIES participation,

(iii) An OPPORTUNITIES program volunteer participant.

(4) A child's eligibility shall not be affected by the OPPORTUNITIES program participation requirement for the parent or needy caretaker relative in the AFDC-R program. A child's eligibility shall be affected by the OPPORTUNITIES program participation requirement for the unemployed qualifying parent in the AFDC-E program.

(5) An individual determined exempt from participation in OPPORTUNITIES on the basis of documented incapacity shall be referred to DVR. See also WAC 388-52-150 through 388-52-155.

[Statutory Authority: Chapter 74.04 RCW. 88-06-084 and 88-07-056 (Orders 2601 and 2601A), § 388-24-090, filed 3/2/88 and 3/14/88. 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.]

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 388-24-107 Eligibility conditions applicable to AFDC-R and AFDC-E--Registration and participation in employment programs. (1) All AFDC applicants/recipients shall, as a condition of eligibility:

(a) Register for the work incentive (WIN) program. A person who requests or receives AFDC shall be considered registered in WIN for every person 16 through 64 years of age in the assistance unit. This shall include everyone who becomes 16 years of age while on AFDC; and

(b) Except as exempted in subsection (2) of this section, participate as required in the following programs under the OPPORTUNITIES program:

(i) Work incentive program (WIN); and/or

(ii) Employment search program (ESP); and/or

(iii) Community work experience program (CWEP).

(2) The following AFDC applicants/recipients shall be exempt from requirements in subsection (b) of this section:

(a) A dependent child 16 years of age and under or 16 years of age but not yet 19 years of age 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 19 years of age;

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

(i) Temporary illness or incapacity provides exemption only for the period of a documented condition of unemployment. Exemption terminates when the condition ceases.

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

(c) A person residing outside an OPPORTUNITIES area or at a location so remote from an OPPORTUNITIES office or service unit that his or her effective participation is precluded. A person is considered remote when a round trip of more than two hours would be required for a normal work or training day, unless normal round trip commuting time in the area is more than two hours. The round trip commuting time shall not exceed the generally accepted community standards. Available public or private transportation is used to compute transportation time. The time necessary to transport children to and from a child care facility is not counted;

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

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

(i) Personally providing full-time care for the child;

(ii) Absent from the child only very briefly and infrequently, i.e., averaging less than thirty hours per week; and

(iii) Not a full-time day student in a college, vocational school, or other post-secondary 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 (2)(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.

(3) Any applicant or recipient shall have 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 chapter 388-57 WAC.)

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

(5) An exempt parent caretaker of a child shall be advised of his or her option to participate if he or she so desires, and of the fact child care shall be provided if

needed subject to available funding. Other exempted individuals may volunteer to participate, subject to acceptance of such participation by the OPPORTUNITIES program.

(6) The department's financial service unit shall determine which AFDC applicants or recipients are exempt from OPPORTUNITIES program participation and which are required to participate as a condition of eligibility. The department shall notify each applicant or recipient of the determination giving the reason for the determination. No applicant or recipient shall be required to participate in the OPPORTUNITIES program until notified by the department.

[Statutory Authority: Chapter 74.04 RCW. 88-06-084 and 88-07-056 (Orders 2601 and 2601A), § 388-24-107, filed 3/2/88 and 3/14/88. Statutory Authority: RCW 74.04.400. 87-12-058 (Order 2503), § 388-24-107, filed 6/1/87; 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 client of AFDC shall assign to the office of support enforcement any rights to support:

(a) In his or her own behalf or in behalf of the other assistance unit members; and

(b) Which has accrued prior to the time assignment is made.

(2) The department shall require the client to promptly remit to the office of support enforcement any support received directly after assignment is made.

(3) The department shall consider the client's signed application as an assignment of support rights. The client's acceptance of an AFDC payment shall constitute an agreement to the assignment of support rights.

(4) If the relative with whom the child lives fails to comply with the requirements in this section, the department shall:

(a) Deny eligibility to that relative; and

(b) Provide any assistance payment the child is eligible for by protective payment under WAC 388-33-453.

(5) The requirements of this section shall apply to recipients by the next regular redetermination of eligibility.

[Statutory Authority: RCW 74.08.090. 88-24-009 (Order 2731), § 388-24-108, filed 11/30/88; 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 388-24-111 Good cause not to cooperate with support enforcement. (1) The department shall waive the requirement for client cooperation in WAC 388-24-109 if it determines cooperation would not be in the best interest of the eligible child.

(2) The department shall inform a client of:

(a) How establishing paternity may benefit the child; and

(b) Their right to claim good cause not to cooperate.

(3) The department shall require the client who claims good cause to:

(a) Provide evidence supporting the good cause circumstances; or

(b) Provide enough information, such as the absent parent's name and address, to permit the department to investigate the existence of the claimed circumstances specified in subsection (6) of this section.

(4) When a client claims to have good cause, the department IV-A staff will determine if:

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

(b) Investigation of the claimed circumstances confirms that cooperation would be against the best interest of the child.

(5) The department shall:

(a) Determine good cause, as quickly as possible, according to time limits in WAC 388-38-110;

(b) Notify the client in writing of the department findings and basis for determination; and

(c) Document the determination and basis in the financial and service records.

(6) Department IV-A staff shall determine that cooperation is against the best interest of the child if:

(a) The client's cooperation can reasonably be anticipated to result in physical or emotional harm which impairs the functioning of:

(i) The child; or

(ii) The caretaker relative to the extent the impairment reduces their capacity to care for the child adequately; or

(b) To establish paternity or secure support, it would be detrimental to the child and:

(i) The child was conceived as a result of incest or rape;

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

(iii) The parent is working with a public or licensed child-placement agency, for up to three months, to decide whether to keep or relinquish the child for adoption.

(7) The department shall limit evidence used to determine good cause without further investigation to the following:

(a) Birth, medical, or law enforcement records which show the child was conceived as the result of incest or rape;

(b) Court or other records which show proceedings for adoption are pending before a superior court;

(c) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records

which show the absent parent might harm the child or caretaker relative;

(d) Medical records or written statements from a mental health professional with a diagnosis or prognosis which show cooperation by the caretaker relative would not be in the best interest of the child; or

(e) Child-placement agency verification, including the dates of counseling, regarding the issue of whether to keep or relinquish the child for adoption.

(8) Upon request, the department shall assist the client in obtaining the required evidence.

(9) If the client cannot obtain required evidence yet continues to claim good cause, the client shall provide information to allow the department to investigate the circumstances of the claim. The department may base good cause on any verifying information acceptable to the department; however, during the investigation the department:

(a) Shall not contact the absent parent unless necessary to establish the good cause claim; and

(b) Prior to such contact, shall notify and allow the client the opportunity to:

(i) Present additional evidence or information that makes contact unnecessary; or

(ii) Withdraw the application for assistance; or

(iii) Request a fair hearing.

(10) Where the department bases good cause on emotional harm, the department shall consider and document the following factors:

(a) The past and present emotional state of the individual subject to emotional harm;

(b) The degree and probable duration of the emotional upset;

(c) The degree of cooperation to be required; and

(d) The child's involvement in the paternity establishment or support enforcement activity.

(11) Department IV-A staff shall determine if support enforcement could proceed without risk of harm to the child or caretaker relative and the collection activities would not involve their participation. If there is no risk, IV-A staff shall:

(a) Document this decision in the case file; and

(b) Notify the client of this decision so he or she may withdraw the application; and

(c) Provide available information about the absent parent to IV-D staff if the application is not withdrawn.

(12) Prior to a final determination of good cause, IV-A staff shall:

(a) Give IV-D staff the opportunity to review and comment on the finding and basis for the proposed determination;

(b) Consider IV-D comments or recommendations; and

(c) Provide IV-D staff the opportunity to participate in any fair hearing based on a good cause claim.

(13) The department shall not deny or delay assistance for a pending good cause determination if the client is cooperating with the requirements to furnish evidence or information.

(14) If IV-A staff determine any collection activity may place the child or caretaker relative at risk, the department shall not attempt to establish paternity or secure support.

(15) IV-A staff shall review, at least at each eligibility review, all active good cause cases. If good cause no longer exists, the department shall require the client to cooperate.

(16) When good cause does not exist:

(a) The department shall notify the client and afford the opportunity to cooperate, withdraw the application, 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).

(17) The department shall maintain records of good cause claims.

(18) IV-A staff shall promptly report to IV-D staff those cases in which:

(a) Good cause has been claimed and a determination is pending;

(b) A determination of good cause exists;

(c) A determination that good cause does not exist; and

(d) A fair hearing has been requested.

[Statutory Authority: RCW 74.08.090, 89-01-048 (Order 2737), § 388-24-111, filed 12/14/88; 79-05-041 (Order 1390), § 388-24-111, filed 4/26/79; 78-09-053 (Order 1330), § 388-24-111, filed 8/22/78.]

WAC 388-24-125 Eligibility conditions applicable to AFDC--Living with a relative of specified degree. (1) To be eligible for AFDC, a dependent child shall be living with a relative of specified degree.

(2) The department defines a relative of specified degree as:

(a) The natural mother;

(b) The natural father if:

(i) He was married to the natural mother when the child was born; or

(ii) The child was born within three hundred days of a termination of marriage; or

(iii) He attempted to marry the natural mother before the child's birth and the child is born within three hundred days after the termination of cohabitation; or

(iv) He receives the child into his home and openly holds out the child as his child; or

(v) He acknowledges paternity in writing and the natural mother does not dispute the acknowledgment; or

(vi) He and the child's natural mother have married or attempted to marry after the child's birth; and:

(A) He acknowledges paternity, filed with the registrar of vital statistics; or

(B) With his consent, he is named as the father on the child's birth certificate; or

(C) He is obligated to pay child support by written voluntary promise or by court order.

(c) A person who legally adopts a child;

(d) Blood relatives (including those of half-blood); 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;

(e) A stepfather, stepmother, stepbrother, and stepsister;

(f) A spouse of a person named in this section is within the scope of this provision, although the marriage is terminated by death or divorce; and

(g) A person identified in a court judgment or order as the child's relative as specified in subsection (2)(a) through (f) of this section.

(3) The department shall determine a child is living with a relative of specified degree when:

(a) The specified relative has assumed parental responsibility for the care, guidance, and control of the child; and

(b) A family setting is maintained or is in the process of being established for the benefit of the family group. A family setting shall include households in temporary shelter and households without shelter; and

(c) Eligibility exists even though circumstances may require the temporary absence of either the child or the responsible relative from the customary family setting, as long as the relative exercises responsibility for the care and control of the child. Such temporary separations include:

(i) Temporary care in a hospital or public or private institution when the illness is such that the department expects a return to the family within ninety days. If the temporary care exceeds ninety days, the monthly grant standard shall be as specified in WAC 388-29-125;

(ii) Temporary care in an alcohol or drug treatment facility when the department expects a return to the family within ninety days. If the care exceeds ninety days, the monthly grant standard shall be as specified in WAC 388-29-130;

(iii) Attendance of a child in school as follows:

(A) The relative retains full responsibility for the child and the child returns during a year's period, at least for summer vacation; and

(B) The need for specialized education or training is not available in the child's home community, and the education is recommended by local school authorities; or

(C) Isolation of the child's residence makes it necessary for him or her to be away from the relative to attend school; or

(D) The child is enrolled in an Indian boarding school administered through the Bureau of Indian Affairs.

(iv) Visits in which the person plans to be away for ninety days or less, including visits of a child to a parent residing away from the child's customary family setting. If the responsible relative or child leaves for more than ninety days, eligibility is redetermined in accordance with the new circumstances;

(v) Attendance of a responsible relative in a department-approved vocational training program. Absence is considered temporary for the period of time required to complete the training program (see WAC 388-57-028); and

(vi) 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.

(d) The child is a ward of the juvenile court, or other agency to whom the court has delegated authority, and 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;

(e) The child is in foster care; and:

(i) The caretaker relative applies and is otherwise eligible;

(ii) The child is returned to the relative's care before the end of the thirty-day assistance period; and

(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, 88-24-009 (Order 2731), § 388-24-125, filed 11/30/88; 88-09-039 (Order 2621), § 388-24-125, filed 4/15/88; 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-24-250 Consolidated emergency assistance program—Conditions of eligibility. The department shall grant assistance under the consolidated emergency assistance program (CEAP) to families with dependent children meeting all of the following eligibility conditions:

(1) Have net monthly income less than fifty percent of the need standard for AFDC households with shelter costs or, if income is above the fifty percent cutoff, demonstrate that they could not have planned to avoid the emergency. The household can demonstrate an inability to plan if funds ordinarily available were expended for:

- (a) Medical bills,
 - (b) Emergent child care to avoid abuse,
 - (c) Dental care to alleviate pain, or
 - (d) Costs incurred in obtaining employment.
- (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, and

(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, or 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, and food stamps for those CEAP applicants requesting emergent food assistance.

(5) Are residents of Washington state. A resident is a person 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 or are:

(a) If not a resident, detained in Washington state for reasons beyond the household's control as a result of events which could not have been reasonably anticipated; or

(b) Migrants.

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

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

(a) Households refusing a bona fide offer of employment or voluntary termination without good cause within thirty days prior to application or after application shall be ineligible for thirty days or until the person accepts employment, whichever is less.

(b) The period of ineligibility shall begin on the date of refusal or termination of employment.

(c) Conditions constituting good cause for refusal or termination of employment are defined in WAC 388-57-064(7).

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

[Statutory Authority: RCW 74.04.660, 87-13-077 (Order 2503), § 388-24-250, filed 6/17/87. 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 for CEAP. The department shall disregard:

(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 74.04.660. 87-13-077 (Order 2503), § 388-24-253, filed 6/17/87. 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.

(1) The department shall estimate the expected income and circumstances for the calendar month for which the assistance payment is made. The estimate shall be based on reasonable expectation and knowledge of anticipated income for the household.

(2) The department shall allow the following deductions from income:

(a) Seventy-five dollars from earned income for work expenses,

(b) The actual amount paid for child care from earned income up to the maximums in WAC 388-28-570, and

(c) The current month's verified expenditures for:

- (i) Medical bills,
- (ii) Emergent child care to avoid abuse,
- (iii) Dental care to alleviate pain, or
- (iv) Costs incurred in obtaining employment.

[Statutory Authority: RCW 74.04.660. 87-13-077 (Order 2503), § 388-24-254, filed 6/17/87. 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. (1) The department shall consider all income, cash, marketable securities, and personal and real property not specifically exempted in WAC 388-24-253.

(2) The department shall deduct income, cash on hand (if not already counted as income), and the value of other nonexempt resources at the time of grant authorization from the amount required to meet the emergent need subject to payment maximums.

(3) The department shall place a value on all other nonexempt resources available to the applicant at the time of grant authorization in accordance with WAC 388-28-400.

(4) The department shall deny CEAP if the amount of income, cash on hand, and nonexempt resources are the same as or are greater than the applicant's needs for the certification period.

[Statutory Authority: RCW 74.04.660. 87-13-077 (Order 2503), § 388-24-255, filed 6/17/87. 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--Payments. (1) The department shall authorize CEAP for no more than thirty consecutive days in any period of twelve consecutive calendar months.

(a) Each certification period cannot exceed thirty calendar days.

(b) CEAP may not be paid to persons who received emergency assistance from the department within the last twelve months.

(2) The department shall pay CEAP by warrant directly to the household or by vendor payment.

[Statutory Authority: RCW 74.08.090. 88-17-122 (Order 2675), § 388-24-260, filed 8/24/88. Statutory Authority: RCW 74.04.660. 87-13-077 (Order 2503), § 388-24-260, filed 6/17/87. 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)--Assistance units. (1) The department shall authorize CEAP for the following people provided they are otherwise eligible:

(a) A pregnant woman in any stage of a verified pregnancy, and

(b) The child or children under eighteen years of age who:

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

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

(c) The parent or parents with whom the child lives. The parental relationship shall be established according to the Uniform Parentage Act, or

(d) One needy caretaker with whom the child lives.

(2) Individuals receiving supplemental security income (SSI), general assistance or refugee assistance shall not be included in the assistance unit.

[Statutory Authority: RCW 74.04.660. 87-13-077 (Order 2503), § 388-24-265, filed 6/17/87. 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-24-276 Repealed. See Disposition Table at beginning of this chapter.

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.
388-26-040	Age determination--Affidavit.
388-26-050	Residence.
388-26-055	Residence--Establishing.
388-26-060	Residence--Maintaining.
388-26-065	Residence--Applicant living in another state.
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388-26-080	Residence--Of children.
388-26-105	Residence--Authorizing return of Washington resident.
388-26-120	Citizenship and alienage.

WAC 388-26-025 Age determination--Specific considerations. (1) Prior to authorizing a public assistance grant, the department shall establish the person, in whose behalf aid is requested, 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 department shall establish the birthdate of a minor child. The child may receive AFDC temporarily when the child's age is obviously within the AFDC age limit. Establish the birthdate as soon as possible for continuing eligibility.

(b) When only the year of birth is established, assign the arbitrary birthdate of July 1.

[Statutory Authority: RCW 74.08.090. 87-19-094 (Order 2542), § 388-26-025, filed 9/17/87; 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. A person is permitted by law to make an affidavit before a judge of the superior court or of the supreme court of the state of Washington as to his or her birthdate. The department shall accept such affidavit as sufficient verification.

[Statutory Authority: RCW 74.08.090. 87-19-094 (Order 2542), § 388-26-040, filed 9/17/87; 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) To qualify for public assistance, a person shall be a resident of Washington state.

(2) No duration of residence is required for any category of public assistance.

[Statutory Authority: RCW 74.08.090. 87-19-094 (Order 2542), § 388-26-050, filed 9/17/87; 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) Voluntarily lives in the state of Washington; and

(b) Intends to maintain his or her home in the state; or

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(c) Is not receiving assistance from another state; and
 (d) Entered the state with a job commitment or seeking employment in the state whether or not currently employed.

(2) The department is not required to find that an applicant is a resident of Washington if the applicant is determined to be a resident of another state and only temporarily absent from that state.

[Statutory Authority: RCW 74.08.090. 87-19-094 (Order 2542), § 388-26-055, filed 9/17/87; 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 has maintained his or her residence in Washington if, since establishing it, the person has not left the state except as specified below.

(2) Absences from the state prior to application do not interrupt 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 not involving an intent to change residence and including a plan for return at a future date.

(3) Applicants meeting the residence requirements and otherwise eligible may not be disqualified from receiving assistance solely because they have received assistance from another state or political subdivision. The department may not use the fact that persons received assistance from another state as the basis to determine they are not residents of Washington.

(4) Persons removing themselves from the state of Washington for more than a temporary visit are assumed to no longer reside in the state of Washington unless they can present positive evidence to the contrary. The department shall not grant assistance to persons not residing in the state of Washington according to this assumption. See WAC 388-33-240 pertaining to "visit." Recipients remaining out of the state for more than one month must supply adequate information to overcome the assumption they no longer intend to reside in the state of Washington.

(5) Assistance can only be continued to recipients who:

(a) Remain in need; and

(b) Fulfill all eligibility requirements, such as, referral to WIN or other rehabilitative resources, current registration for work, maintenance of services to children, etc.

[Statutory Authority: RCW 74.08.090. 87-19-094 (Order 2542), § 388-26-060, filed 9/17/87; 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. Persons applying to Washington for a public assistance grant while living in another state or country may meet the residence requirement if they:

(1) Offer convincing proof they have 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) Once lived and acquired residence in this state, and

(a) Still intend to maintain their residence in the state of Washington, and

(b) Have a plan to return to the state, and

(c) Their absence is:

(i) Enforced and beyond their control, or

(ii) Essential to their welfare and due to physical or social needs; and

(3) Live in the United States at the time of application; and

(4) Can arrange to have the application taken by a public assistance agency and the agency can make the necessary investigation to process the application in accordance with Washington rules.

[Statutory Authority: RCW 74.08.090, 87-19-094 (Order 2542), § 388-26-065, filed 9/17/87; 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 receiving assistance from another state is eligible for assistance in Washington when the residence requirement is satisfied and the applicant is otherwise eligible. The department shall not authorize assistance in Washington until eligibility for assistance from the other state ceases and the grant from the other state is terminated.

[Statutory Authority: RCW 74.08.090, 87-19-094 (Order 2542), § 388-26-070, filed 9/17/87; 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. Children reside in the state of Washington if they make their home in the state.

[Statutory Authority: RCW 74.08.090, 87-19-094 (Order 2542), § 388-26-080, filed 9/17/87; 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. 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 department shall:

(1) Investigate the pertinent facts relative to the inquiry;

(2) Furnish the other state with pertinent information;

(3) When appropriate, give social facts indicating whether residence in the state of Washington is or is not in the interest of the person's welfare; and

(4) Inform the inquiring state that the department has no legal authority to authorize the return of a person to the state or to pay costs of such return.

[Statutory Authority: RCW 74.08.090, 87-19-094 (Order 2542), § 388-26-105, filed 9/17/87; 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) A Canadian Indian (a North American Indian born in Canada) considered the same as a United States citizen because he or she:

(a) 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

(c) Has maintained residence since entry; or

(3) 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) except:

(a) An alien attaining temporary resident status (TRS) or permanent resident status (PRS) under the Immigration Reform and Control Act of 1986 (IRCA) is not eligible for AFDC for five years from the date TRS was granted; except:

(b) Cuban and Haitian entrants attaining TRS or PRS under IRCA may immediately receive AFDC if otherwise eligible.

[Statutory Authority: RCW 74.08.090, 87-19-094 (Order 2542), § 388-26-120, filed 9/17/87; 84-15-006 (Order 2119), § 388-26-120, filed 7/6/84; 82-23-060 (Order 1908), § 388-26-120, filed 11/17/82; Order 942, § 388-26-120, filed 6/26/74.]

Chapter 388-28 WAC

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

WAC

388-28-365	Community, separate and jointly owned property—Separate property.
388-28-370	Community, separate and jointly owned property—Further considerations for determining property of husband and wife.
388-28-425	Effect of resources on financial need—Real property other than home—All programs.
388-28-435	Effect of resources on financial need—Personal property exemptions—Ceiling values—AFDC and RA.
388-28-440	Accumulation and depletion of allowable cash resource reserves.
388-28-464	Transfer of property—Assistance during period of ineligibility.
388-28-475	Use of income and income potentials.
388-28-480	Use of income and income potentials—Types of income—Effect on need.
388-28-482	Effect of newly acquired income and property on continuing need.
388-28-483	Prospective eligibility, prospective budgeting, and retrospective budgeting.

388-28-500	Allocating income.
388-28-560	Income for support of legal dependents.
388-28-575	Disregard of income and resources.

WAC 388-28-365 Community, separate and jointly owned property--Separate property. (1) The department shall consider property to be separate when the department establishes the property:

(a) Was acquired and paid for by either spouse before marriage;

(b) Was acquired as a result of gift or inheritance; or

[(c)] Was acquired and paid for entirely out of income from separate property.

(2) A commingling of community income and income from separate property in the purchase or improvement of property probably destroys the status of separate property.

[Statutory Authority: RCW 74.08.090. 88-19-029 (Order 2691), § 388-28-365, filed 9/12/88; Regulation 8.552, filed 1/24/64.]

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 388-28-370 Community, separate and jointly owned property--Further considerations for determining property of husband and wife. Transfer of separate property by one spouse does not disqualify the other spouse, but the spouse transferring property may not be included in the grant.

[Statutory Authority: RCW 74.08.090. 88-19-029 (Order 2691), § 388-28-370, filed 9/12/88; Regulation 8.553, filed 1/24/64.]

WAC 388-28-425 Effect of resources on financial need--Real property other than home--All programs. (1) If an applicant owns real property with net equity value in excess of the resource maximum, the applicant may receive assistance for a period not to exceed nine months provided the applicant:

(a) Is making a good-faith effort to sell the property. "Good-faith effort" means listing the property with a multiple listing realtor or other reasonable means when a multiple listing is unavailable or the realtor refuses to list the property.

(b) Signs a repayment agreement to repay the lesser of the amount of aid received or the net proceeds of such sale. "Net sale proceeds" means sale price less encumbrances and costs incurred in selling the property.

(2) If the owner of excess real property ceases to make good-faith efforts to sell the property, the entire amount of assistance may become an overpayment. Clients must be advised of their right to a fair hearing and afforded the opportunity to challenge a decision that good-faith efforts to sell have ceased, prior to assessment of an overpayment under this section.

(3) At the time assistance is authorized, the department shall file a lien without a sum certain on the specific property.

[Statutory Authority: RCW 74.08.090. 88-19-029 (Order 2691), § 388-28-425, filed 9/12/88; 85-18-042 (Order 2276), § 388-28-425, filed 8/30/85.]

WAC 388-28-435 Effect of resources on financial need--Personal property exemptions--Ceiling values--AFDC and RA. (1) Resources shall not exceed one thousand dollars per household regardless of size. The department shall consider cash, marketable securities, cash discount value of real estate or chattel mortgages, sales contracts, cash surrender value of life insurance, excess equity value of vehicles, value of nonexempt property, and any other resources not specifically exempt.

(2) Regardless of value, the department shall exempt household furnishings and personal clothing essential for daily living. The department shall not exempt household furnishings and personal clothing in storage without evidence that these items are essential for daily living.

(3) The department shall exempt term or burial insurance up to an equity value of one thousand five hundred dollars per household member.

(4) The department shall exempt one cemetery plot for each assistance household member.

(5) The department shall exempt one used and useful vehicle with an equity value of one thousand five hundred dollars or less.

(6) The department shall consider an income tax refund a resource in the month received. "Income tax refund" means a payment received from a state or from the United States Internal Revenue Service (IRS) representing a refund of taxes previously paid. The earned income tax credit portion is excluded from this definition.

[Statutory Authority: RCW 74.04.055. 88-05-013 (Order 2598), § 388-28-435, filed 2/10/88. 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 388-28-440 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) 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 74.04.050. 88-07-052 (Order 2608), § 388-28-440, filed 3/14/88. 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 388-28-464 Transfer of property--Assistance during period of ineligibility. An applicant transferring nonexempt property to qualify for assistance and having 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 be the full grant amount and shall not be considered an overpayment.

[Statutory Authority: RCW 74.08.090. 87-19-092 (Order 2540), § 388-28-464, filed 9/17/87; 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 388-28-475 Use of income and income potentials. (1) Meaning of income (see definition in WAC 388-22-030). Income shall include, but is not limited to, all types of:

- (a) Real or personal property;
- (b) Support from parent, stepparent, or other nonrelated adult;
- (c) Stocks and bonds;
- (d) Wages;
- (e) Interest in an estate;
- (f) Income from farming;
- (g) Benefits and entitlements from private and public agencies, such as OASDI, veterans' agencies, and U.C.;
- (h) Gifts and prizes in the form of cash or marketable securities; and
 - (i) For AFDC lump sum payments. For general assistance, only that amount of the lump sum in excess of the resource limits is income.

(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 74.04.050. 88-07-052 (Order 2608), § 388-28-475, filed 3/14/88. 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) Treatment of income.

(a) The department shall determine the grant amount for the month of application 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 department shall prorate the remainder 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 and/or report month. WAC 388-28-483(3) is an exception to this rule.

(d) 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) Irregular or nonrecurring income.

(a) The department shall disregard irregular income up to five dollars per month received by a general assistance applicant or recipient.

(b) The department shall disregard nonrecurring cash gifts received by an AFDC or RA applicant or recipient when such gifts do not exceed thirty dollars per individual for any three-month period.

(c) The department shall consider an earned income credit (EIC) to be earned income during the month received.

(3) Loans.

(a) The department shall not consider as income any contractually agreed loan acquired by an applicant or recipient committing all funds for a specific purpose other than current maintenance, and so expended.

(i) The department shall not include the property used as collateral for the loan in determining property reserves.

(ii) The department shall consider toward the resource ceiling the equity accumulated in the specified property.

(b) The department shall not consider as income any other loan, regardless of the loan's ability to meet current needs when the department verifies:

(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; and

(iii) The agreement includes 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; and

(iv) The agreement sets forth the terms of the loan regarding the loan's amount; and

(v) The agreement is signed by the lender and the borrower.

(c) The department shall not consider as income repayments to a recipient of money previously loaned by the recipient to another party since the loan represents income or resources already considered in computing need.

(i) The department shall verify the facts of the loan.

(ii) The department shall consider any interest paid on the loan to be newly acquired income.

(4) Gift in-kind.

(a) The department considers the following items to be gifts-in-kind:

(i) Real or personal property, excluding cash and marketable securities, exempted for an applicant and within the ceiling values; e.g., a home or a new furnace.

(ii) Any item in the department's standards for additional requirements which is not a requirement for the recipient of such a gift; e.g., telephone service.

(b) The department shall not consider a gift in-kind as income or resource if the donor specified in writing the intended use or purpose of the gift.

(c) Needed goods or services not currently included as additional requirements in the department's standards; e.g., repair of house or of household equipment.

(5) Lump sums.

(a) The department shall consider lump sum payments as income in the month received;

(b) The department defines a lump sum payment as nonrecurring earned or unearned income. Lump sums may include:

(i) Lottery winnings,

(ii) An inheritance,

(iii) Personal injury award,

(iv) Workers compensation awards, or

(v) Social Security back payments.

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

[Statutory Authority: RCW 74.08.090, 88-07-117 (Order 2613), § 388-28-480, filed 3/23/88; 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 388-28-482 Effect of newly acquired income and property on continuing need. (1) "Newly acquired income" means any previously unreported or undiscovered income a public assistance recipient possesses or controls in whole or in part.

(2) Unless otherwise specified in this section, the department shall deduct newly acquired income from the payment level plus authorized additional requirements to determine grant amount. The amount deducted shall equal the following:

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

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

(3) The department shall apply WAC 388-28-400(7) when the property is only potentially available to meet the recipient's requirements.

(4) [A] The department shall allow recipients who own property listed below to retain the property without having it affect their 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. The earned income tax credit portion of the refund shall be newly acquired income; and

(e) Income from the department to correct a previous underpayment of assistance under WAC 388-33-195.

(5) The department shall modify the rule in subsection (2) of this section for a recipient of AFDC or continuing general assistance as follows:

(a) Earned income retained by a child, under WAC 388-28-535(3), is the personal property of the family and subject to the ceilings in WAC 388-28-430(2);

(b) The possession of any amount of funds from sources listed in subsection (5)(a) 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;

(c) 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 the amount causes the total value of the

resource possessed to exceed the ceiling values of the resource. The excess is considered available; and

(d) Exempt funds representing another person's share of household costs are exempt provided such payments are not legally obligated child support except as provided in WAC 388-28-484 (7)(b).

[Statutory Authority: RCW 74.08.090. 88-19-068 (Order 2697), § 388-28-482, filed 9/16/88; 88-07-117 (Order 2613), § 388-28-482, filed 3/23/88; 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.]

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 388-28-483 Prospective eligibility, prospective budgeting, and retrospective budgeting. (1) Definitions.

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

(b) The second calendar month preceding the payment month shall be called the budget month.

(c) The calendar month between the budget month and the payment month shall be called the process month.

(2) Eligibility determination. The department shall determine eligibility based on the best estimate of income and circumstances which will exist in the payment month.

(3) Prospective budgeting.

(a) Except as specified in subsection (4)(a), the department shall budget all income prospectively for the first two months of initial eligibility, including income of an individual added to an existing assistance unit.

(b) The department shall compute the amount of the assistance payment based on the expected income and circumstances which will exist in the payment month.

(c) The department shall:

(i) Establish an overpayment if the income is underestimated, and

(ii) Issue a corrective payment if the income is overestimated.

(4) Retrospective budgeting.

(a) The department shall retrospectively budget all income for the first two months of initial eligibility if:

(i) A case is reopened as terminated in error; or

(ii) An individual having had income deemed to an assistance unit is added to that assistance unit; or

(iii) Assistance had been suspended as specified in subsection (5); and

(A) The initial month follows the month of suspension, and

(B) The family's circumstances for the initial authorization month have not changed significantly from those reported in the budget month.

(b) After the first two months of initial eligibility, the department shall budget all income retrospectively.

(c) The department shall compute the amount of assistance based on the income which existed in the budget month.

(d) The department shall consider all income received during the calendar month of application approval for retrospective budgeting purposes.

(e) 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.

(5) [See WAC 388-33-135 for effective dates of ineligibility.] Suspension. The department shall suspend rather than terminate if:

(a) The department has knowledge of or reason to believe ineligibility would be only for one payment month, and

(b) Ineligibility for that one payment month was caused by income or other circumstances in the corresponding budget month.

[Statutory Authority: RCW 74.08.090. 88-07-117 (Order 2613), § 388-28-483, filed 3/23/88; 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.]

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 388-28-500 Allocating income. (1) The department shall attribute nonexempt net income to the assistance unit of which the person is a member, except:

(a) Families with two or more assistance units. The department shall equally divide the total nonexempt net community income, including income in-kind, between the assistance units unless:

(i) The family prefers some other division; and

(ii) The preferred division does not increase the total amount of assistance, excluding medical care.

(b) Applicant with a nonapplying spouse. The department shall consider:

(i) At least half of the total community income, including income in-kind, available to an AFDC applicant living with a nonapplying spouse;

(ii) Net income from wages, retirement benefits, or separate property of the nonapplying spouse available to the applicant to the extent the net income exceeds a one-person payment level;

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

(c) Nonexempt income. The department shall not use exempt income in computing the need of any assistance unit;

(d) Nonrelated adults in household. The department shall follow rules in WAC 388-28-355 for nonrelated adults in the household.

(2) The department shall apply the rules in subsection (1) of this section to a person in an adult family home or other nonmedical institution.

(3) The department shall consider as available to the minor parent, income from nonapplying parent or legal guardians with court order support responsibility.

(a) "Minor parent" means a person who:

(i) Is seventeen years of age or younger; and
(ii) Resides in the same household with an adult responsible for the minor parent's support.

(b) To determine the amount available to the minor parent, the department shall disregard:

(i) Seventy-five dollars per month for each employed parent or legal guardian;

(ii) An amount equal to the need standard in WAC 388-29-100 for the following:

(A) The parents or legal guardians residing in the home; and

(B) Others living in the home but not in the assistance unit who could be claimed as dependents on the parents' or legal guardians' federal income tax return.

(iii) Payments by the parents or legal guardians to persons outside the home who could be claimed as dependents on the parents' or legal guardians' federal income tax return; and

(iv) Child support or alimony payments by the parents or legal guardians to persons outside the home.

(4) When a recipient in a medical institution, alcohol/drug treatment center, or congregate care facility receives an AFDC or a continuing general assistance grant, the department shall allocate income as follows:

(a) First to the appropriate payment level of legal dependents in chapter 388-29 WAC; and

(b) Then to the needs of the recipient according to WAC 388-34-045, 388-34-085, 388-34-110, 388-34-120, or 388-34-378.

[Statutory Authority: RCW 74.08.090, 89-01-094 (Order 2741), § 388-28-500, filed 12/21/88; 87-19-090 (Order 2538), § 388-28-500, filed 9/17/87; 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 388-28-560 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 gross income allocated to the assistance unit.

[Statutory Authority: RCW 74.04.055, 88-04-018 (Order 2571), § 388-28-560, filed 1/22/88. 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 388-28-575 Disregard of income. (1) For AFDC, the department shall disregard as income:

(a) Grants, loans, or federal work study to an undergraduate student insured by the Secretary of Education, U.S. Department of Education;

(b) Per capita judgment funds under P.L. 92-254 to members of the:

(i) Blackfoot Tribe of the Blackfoot Indian Reservation, Montana; and

(ii) Gros Ventre Tribe of the Fort Belknap Reservation, Montana.

(c) Indian claim settlement per capita funds or funds held in trust under P.L. 93-134 or P.L. 94-114;

(d) The income of a Supplemental Security Income recipient;

(e) Two thousand dollars per individual per calendar year received under the Alaska Native Claims Settlement Act or under P.L. 98-64;

(f) AFDC benefits resulting from a court order modifying a department policy;

(g) Veterans' Administration educational assistance for the student's educational expenses and child care necessary for school attendance;

(h) HUD community development block grant funds that preclude use for current living costs;

(i) The monthly child support incentive payment from the office of support enforcement; and

(j) A previous underpayment of assistance under WAC 388-33-195.

(2) The department shall disregard as income, for AFDC and GA:

(a) Payment under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(b) The food coupon allotment under Food Stamp Act of 1977;

(c) Compensation to volunteers in ACTION programs established by Titles I, II, and III of P.L. 93-113;

(d) Benefits under women, infants and children program (WIC);

(e) Food service program for children under the National School Lunch Act; and

(f) Energy assistance payments.

[Statutory Authority: RCW 74.08.090, 88-22-036 (Order 2718), § 388-28-575, filed 10/27/88; 88-01-045 (Order 2572), § 388-28-575, filed 12/11/87; 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; 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.]

Chapter 388-29 WAC STANDARDS--ELIGIBILITY

WAC	
388-29-001	Definitions.
388-29-100	Standards of assistance--Basic requirements.
388-29-125	Standards of assistance--Persons in medical institutions.
388-29-130	Standards of assistance--Persons in congregate care facilities.
388-29-145	Repealed.
388-29-146	Repealed.
388-29-260	Standards of assistance--Persons in boarding homes--General assistance.
388-29-280	Standards of assistance--Adult family home care.
388-29-295	Standards of assistance--Supplemental security income (SSI) program.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-29-145	Standards of assistance--AFDC--Child in need of specialized education or training. [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.] Repealed by 88-07-062 (Order 2612), filed 3/16/88. Statutory Authority: RCW 74.08.044.
388-29-146	Standards of assistance--Foster care. [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.] Repealed by 88-04-019 (Order 2588), filed 1/22/88. Statutory Authority: 1987 1st ex.s. c 7.

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.

[Statutory Authority: RCW 74.08.090. 88-18-056 (Order 2677), § 388-29-001, filed 9/1/88; 85-07-020 (Order 2215), § 388-29-001, filed 3/13/85.]

WAC 388-29-100 Standards of assistance--Basic requirements. (1) The statewide monthly need standards for basic requirements shall be:

(a) Households with an obligation to pay shelter costs effective October 1, 1988.

Treat 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, as renters if they make any utility payment in lieu of a rental payment.

Recipients in Household	Need Standard
1	\$ 557
2	705
3	872
4	1,026
5	1,182
6	1,341
7	1,549
8	1,715
9	1,883
10 or more	2,046

(b) Households without shelter costs effective October 1, 1988.

The monthly standard for clients without shelter costs includes requirements for food, clothing, personal maintenance and necessary incidentals, household maintenance, and transportation.

Recipients in Household	Need Standard
1	\$ 328
2	416
3	514
4	605
5	697
6	791
7	914
8	1,011
9	1,111
10 or more	1,207

(2) One hundred eighty-five percent of the state-wide monthly need standard for basic requirements is:

(a) Households with shelter costs effective October 1, 1988.

Recipients in Household	185% of Need Standard
1	\$ 1,030
2	1,304
3	1,613
4	1,898
5	2,186
6	2,480
7	2,865
8	3,172
9	3,483
10 or more	3,785

(b) Households without shelter costs effective October 1, 1988.

Recipients in Household	185% of Need Standard
1	\$ 606
2	769
3	950
4	1,119
5	1,289
6	1,463
7	1,690
8	1,870
9	2,055
10 or more	2,232

(3) The state-wide monthly payment standard shall be:

(a) Effective October 1, 1988, payment standards for households with shelter costs reflecting a ratable reduction of 43.7 percent of need standards.

Treat 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, 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 October 1, 1988, payment standards for households without shelter costs reflecting a ratable reduction of 43.7 percent of the need standard.

The monthly payment standard for clients without shelter costs shall include requirements for food, clothing, personal maintenance and necessary incidentals, transportation, and household maintenance.

Recipients in Household	Payment Standard
1	\$ 186
2	235
3	290
4	342
5	393
6	446
7	515
8	570
9	626
10 or more	680

[Statutory Authority: RCW 74.08.090. 88-18-056 (Order 2677), § 388-29-100, filed 9/1/88. Statutory Authority: 1987 1st ex.s. c 7. 88-04-019 (Order 2588), § 388-29-100, filed 1/22/88. 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 388-29-125 Standards of assistance--Persons in medical institutions. Effective July 1, 1988, 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 forty-one dollars and sixty-two cents.

[Statutory Authority: RCW 74.08.090. 88-16-078 (Order 2659), § 388-29-125, filed 8/2/88. Statutory Authority: 1987 1st ex.s. c 7. 88-04-019 (Order 2588), § 388-29-125, filed 1/22/88. 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-eight dollars and eighty-four cents effective September 1, 1988.

[Statutory Authority: RCW 74.08.090. 88-19-032 (Order 2694), § 388-29-130, filed 9/12/88. Statutory Authority: 1987 1st ex.s. c 7. 88-04-019 (Order 2588), § 388-29-130, filed 1/22/88. Statutory Authority: RCW 74.08.090. 85-24-051 (Order 2309), § 388-29-130, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-130, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-130, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-130, filed 8/19/83; 81-19-127 (Order 1701), § 388-29-130, filed 9/23/81; 79-10-083 (Order 1434), § 388-29-130, filed 9/21/79; 79-04-036 (Order 1379), § 388-29-130, filed 3/22/79; Order 1254, § 388-29-130, filed 12/1/77; Order 1241, § 388-29-130, filed 9/23/77.]

WAC 388-29-145 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-29-146 Repealed. See Disposition Table at beginning of this chapter.

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-eight dollars and eighty-four cents.

(3) These standards are effective September 1, 1988.

[Statutory Authority: RCW 74.08.090. 88-20-082 (Order 2708), § 388-29-260, filed 10/5/88; 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 388-29-280 Standards of assistance--Adult family home care. (1) The basic monthly standard for adult family home care shall be three hundred eighty-four dollars and sixty-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-eight dollars and eighty-four cents.

(3) Activities of daily living add-ons

- (a) 1- 3 activities \$38.43
- (b) 4- 7 activities \$57.63
- (c) 8-12 activities \$83.24

(4) Health-related services, maximum of nine.....each.. \$25.61

[Statutory Authority: RCW 74.08.090. 88-19-032 (Order 2694), § 388-29-280, filed 9/12/88. Statutory Authority: 1987 1st ex.s. c 7. 88-04-019 (Order 2588), § 388-29-280, filed 1/22/88. 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, 1988, the standards of SSI assistance paid to eligible individuals and couples are:

	Standard	Federal Benefit	State Supplement
Area I: King, Pierce, Snohomish, Thurston, and Kitsap Counties			
Living alone			
Individuals	\$382.00	\$354.00	\$ 28.00
Couples			
Both eligible	554.00	532.00	22.00
With essential person	553.00	531.00	22.00
With ineligible spouse	546.00	354.00	192.00
Area II: All Counties Other Than the Above			
Living alone			
Individuals	361.55	354.00	7.55
Couples			
Both eligible	532.00	532.00	0
With essential person	531.00	531.00	0
With ineligible spouse	514.15	354.00	160.15
Shared living			
Individuals	241.81	236.00	5.81
Couples			
Both eligible	360.97	354.67	6.30
With essential person	360.30	354.00	6.30
With ineligible spouse	355.63	236.00	119.63

[Statutory Authority: RCW 74.08.090. 88-01-040 (Order 2565), § 388-29-295, filed 12/11/87; 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 388-31 WAC

LIFELINE TELEPHONE ASSISTANCE PROGRAM

WAC

388-31-010	Purpose of program.
388-31-015	Definitions.
388-31-020	Conditions of eligibility.
388-31-025	LTAP benefits.
388-31-030	Notification and eligibility periods.
388-31-035	LTAP fund.

WAC 388-31-010 Purpose of program. The lifeline telephone assistance program (LTAP) is designed to help low-income households afford access to local exchange telephone service.

[Statutory Authority: 1987 c 229, 87-19-093 (Order 2541), § 388-31-010, filed 9/17/87.]

WAC 388-31-015 Definitions. (1) "Local exchange company" means a telecommunication company providing local exchange telecommunication service, i.e., the telephone company.

(2) "Service year" means the period beginning August 1 and ending July 31 of the following calendar year for the LTAP.

[Statutory Authority: 1987 c 229, 87-19-093 (Order 2541), § 388-31-015, filed 9/17/87.]

WAC 388-31-020 Conditions of eligibility. Recipients of AFDC, SSI, food stamps, chore services, refugee assistance, and COPEs shall meet all of the following eligibility conditions for benefits under LTAP:

(1) Make application to the local exchange company using the application/certificate of eligibility provided by the department of social and health services; and

(2) Have local exchange telecommunications service billed in their name; and

(3) Subscribe to the lowest available local exchange flat rate service.

[Statutory Authority: 1987 c 229, 87-19-093 (Order 2541), § 388-31-020, filed 9/17/87.]

WAC 388-31-025 LTAP benefits. (1) Benefits under LTAP shall be limited to funds available in the lifeline telephone assistance program fund.

(2) Households participating in LTAP shall be eligible for:

(a) A discount on local exchange flat rate services to the extent the local exchange flat rate exceeds the lifeline service rate as established by the Washington utilities and transportation commission. The local exchange flat rate shall include any federal and user access charges and any other charges necessary to obtain local exchange service;

(b) A waiver of deposit requirements on local exchange service; and

(c) A fifty percent discount on service connection fees.

(3) Benefits under LTAP are limited to one residential access per household.

(4) The waiver of deposit and the fifty percent discount on service connection fees shall be available once per service year.

[1988 WAC Supp—page 2420]

[Statutory Authority: 1987 c 229, 87-19-093 (Order 2541), § 388-31-025, filed 9/17/87.]

WAC 388-31-030 Notification and eligibility periods. (1) The department shall notify recipients of AFDC, SSI, food stamps, chore services, refugee assistance, and COPEs of their eligibility for LTAP.

(2) Eligibility for LTAP shall continue from August 1 or the date assistance or food stamps is approved, whichever is more recent, through July 31.

[Statutory Authority: 1987 c 229, 87-19-093 (Order 2541), § 388-31-030, filed 9/17/87.]

WAC 388-31-035 LTAP fund. (1) Limited to funds available in the LTAP fund, the department shall reimburse local exchange companies for administrative and program expenses associated with the LTAP:

(a) The amount the department pays shall be reduced to the maximum extent possible by a waiver of all or part of the federal end user access charge,

(b) Reimbursement shall be from the LTAP fund, and

(c) Payments shall be limited to services provided after the household's eligibility for the LTAP has been established.

(2) The department shall recover its administrative costs from the LTAP fund.

(3) Reimbursement from the LTAP fund shall be by such procedure as established by the department.

[Statutory Authority: 1987 c 229, 87-19-093 (Order 2541), § 388-31-035, filed 9/17/87.]

Chapter 388-33 WAC

AID TO FAMILIES WITH DEPENDENT CHILDREN AND CONTINUING GENERAL ASSISTANCE--GRANT OR VENDOR PAYMENT

WAC

388-33-135	Effective date of change in eligibility.
388-33-195	Underpayments.
388-33-355	Suspension of grant.
388-33-370	Repealed.
388-33-400	Payee of grant.
388-33-420	Payment of grant to other person in behalf of recipient.
388-33-455	Protective payment—Special needs of SSI beneficiary, general assistance recipient or recipient of the Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) program.
388-33-480	Direct rental payments to landlords—Pilot program.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-33-370	Termination of suspended grant. [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.] Repealed by 88-21-094 (Order 2714), filed 10/19/88. Statutory Authority: RCW 74.08.090.
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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 for more than one month, 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) If the change causes ineligibility for one month only, refer to WAC 388-33-355.

(4) 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. 88-07-117 (Order 2613), § 388-33-135, filed 3/23/88; 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 388-33-195 Underpayments. (1) The department shall repay upon discovery a current or former recipient any underpayment, not negated by budgeting against an overpayment.

(2) The effective date of the corrective payment shall be the date of the payment authorization.

[Statutory Authority: RCW 74.08.090. 88-19-069 (Order 2698), § 388-33-195, filed 9/16/88; 85-15-056 (Order 2258), § 388-33-195, filed 7/17/85; 82-01-009 (Order 1728), § 388-33-195, filed 12/4/81; Order 906, § 388-33-195, filed 2/14/74; Order 791, § 388-33-195, filed 4/12/73.]

WAC 388-33-355 Suspension of grant. (1) The department shall suspend a grant when:

(a) The amount of the monthly grant following the budgeting of income is less than ten dollars per month; or

(b) The recipient is in an institution and has income that exceeds grant requirements, but is less than grant requirements plus medical, nursing home, or intermediate care costs; or

(c) The department has reason to believe ineligibility would be for one month only and caused by income or circumstances in the report month; or

(d) A general assistance recipient enters a state mental hospital; or

(e) A general assistance recipient's income exceeds the payment standard for more than one month, but less than two months.

(2) The department shall determine eligibility for the month following the month of suspense according to WAC 388-28-483.

(3) The department shall reinstate a suspended grant when:

(a) The conditions in subsection (1) of this section cease to exist; and

(b) The recipient completes a department-initiated review of eligibility; and

(c) The recipient is otherwise eligible.

(4) The department shall terminate a suspended grant when:

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

(b) The individual does not request reinstatement of grant within:

(i) Fifteen days after leaving an institution; or

(ii) Fifteen days of completing restitution of overpayment by monthly grant deduction; or

(iii) The suspense month for all other suspense cases.

(c) The individual becomes ineligible for some other reason.

[Statutory Authority: RCW 74.08.090. 88-21-094 (Order 2714), § 388-33-355, filed 10/19/88; 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 388-33-370 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-33-400 Payee of grant. (1) Cash payments are made directly to all continuing assistance recipients except as modified in subsection (2)(b)(ii) through (vi) of this section.

(2) Grants are paid

(a) To eligible recipients in cash (state warrant), or

(b) To other persons or agencies in behalf of the eligible recipients 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 recipients as described in WAC 388-33-460.

(vi) Living allowances for recipients of the alcoholism and drug addiction treatment and support program (ADATSA).

(3) In authorizing any payment of assistance the department shall specify the person or agency to whom the grant is to be paid.

[Statutory Authority: 1987 c 406. 87-18-007 (Order 2527), § 388-33-400, filed 8/21/87; 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) The department may direct payment of a general assistance grant to a protective payee when an applicant/recipient has demonstrated an inability to care for himself/herself or his/her money. General assistance recipients who are incapacitated by alcoholism or drug addiction in addition to any other mental or physical condition(s) shall have their grants issued in the form of a protective payment for as long as the alcoholism or drug addiction continues to be incapacitating.

(3) Recipients of the alcoholism and drug addiction treatment and support program shall not be issued a direct cash payment except in those instances where the department opts to pay directly that amount which is designated specifically for clothing and personal incidentals.

(4) When a grant payment cannot be made directly to a recipient, a guardian shall be secured or a protective payee shall be designated.

(a) Guardianship is preferable when the recipient

(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.

[Statutory Authority: 1987 c 406, 87-18-007 (Order 2527), § 388-33-420, filed 8/21/87; 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 388-33-455 Protective payment—Special needs of SSI beneficiary, general assistance recipient or recipient of the Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) program. (1) Protective payment for a SSI beneficiary or general assistance or ADATSA recipient is payment to another individual or agency designated as protective payee.

(2) The objective in making protective payments is to assist in money management or provide management of funds for the recipient 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. Alcoholics and drug addicts whose addiction and compulsion is so severe that they are unable to work are considered to be incapable of handling money in their own best interests.

(3) Allowances for the cost of chore service or special needs such as restaurant meals may be issued to a protective payee when the recipient manifests a persistent inability to manage and use his funds for their intended purposes.

(4) When the department 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 withheld from a recipient's grant for payment to the protective payee for his costs or services. However the department may authorize an additional fee, not to exceed five percent of the monthly one-person payment standard, to cover the administrative costs of a protective payee.

(7) The facts supporting a determination of an applicant/recipient'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) An alcohol/drug assessment which establishes incapacity due to alcoholism or drug addiction,

(c) Observation of gross conditions such as extensive paralysis, serious mental retardation, continued disorientation, or severe memory loss,

(d) Continued inability to plan and spread necessary expenditures over the usual payment period,

(e) Persistent failure to pay for rent, utilities, food and other essentials.

(8) The individual or agency designated to receive the payment on behalf of a recipient of the ADATSA program or on behalf of a general assistance recipient who

is also incapacitated by alcoholism or drug addiction shall be limited to the following:

(a) A department-approved alcohol/drug treatment or assessment agency or designated staff person thereof,

(b) A community mental health agency or staff member of that agency,

(c) A social service agency, individual, or corporation who has a written agreement with the department to provide protective payee services,

(d) A department employee.

(9) For other recipients of general assistance or for SSI beneficiaries with special needs, any of the persons or agencies listed in subsection (8) of this section may act as protective payees. However the department may, based on the recipient's special needs and preferences, select a relative, friend, or other interested individual, social service agency or corporation concerned with the well-being of the recipient.

(10) Standards for selecting a protective payee are:

(a) Interest and concern in the welfare of the applicant/recipient,

(b) Ability to help the applicant/recipient make proper use of the assistance payment when feasible,

(c) Accessibility to the applicant/recipient,

(d) Ability to establish and maintain a positive relationship with the applicant/recipient,

(e) Good character and reliability.

(11) All protective payee agreements must be in writing.

The payee has responsibility for assuring the department that the assistance is spent on behalf of the recipient. A record of expenditures for the basic needs of food, shelter, clothing and utilities shall be maintained and kept current for review.

[Statutory Authority: 1987 c 406, 87-18-007 (Order 2527), § 388-33-455, filed 8/21/87; 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 388-33-480 Direct rental payments to landlords—Pilot program. The department shall conduct a pilot program to assess if direct rental payments to landlords would increase the supply of housing for persons on public assistance.

(1) The department shall solicit no less than three nor more than seven local governing bodies to participate in the pilot program. To implement this program, the department shall:

(a) Enter into an agreement with selected local governing bodies for direct rental payments to landlords;

(b) Provide a written notice to the recipient that the landlord may not legally require direct rental payment from the department;

(c) Upon written request of the recipient, pay the landlord through the local governing body either ninety percent of the monthly shelter standard or ninety percent of the rent, whichever is less;

(d) Terminate direct rental payments to the landlord when:

(i) The landlord mails to the local governing body and the department, by certified mail, a copy of any termination notice served to the tenant; or

(ii) The recipient provides:

(A) A written request to the department at least ten days prior to the termination date; and

(B) A written notice of termination to the local governing body and the landlord.

(iii) Conditions in WAC 388-38-270 exist.

(e) Recoup from the landlord any incorrect payment made to the landlord. An incorrect payment is defined as any payment made to a landlord to which the landlord was not entitled, including, but not limited to:

(i) The recipient no longer resides at the landlord's rental property; or

(ii) The recipient lives at the landlord's rental property, but has provided the written notice terminating the agreement as required by WAC 388-33-480 (1)(d).

(2) The department shall not hold the recipient liable for any incorrect payments to the landlord.

(3) The local governing body shall:

(a) Administer the pilot program using existing housing assistance providers;

(b) Charge the landlord a monthly fee of two dollars to cover the cost of each direct payment; and

(c) Charge the landlord a fee, up to fifty dollars, to cover the cost of inspecting and certifying that the housing unit is in compliance with United States Department of Housing and Urban Development, section 8, housing quality standards.

[Statutory Authority: RCW 74.04.050, 88-14-061 (Order 2645), § 388-33-480, filed 7/1/88.]

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.
388-37-021	Provision of Social Security numbers.
388-37-030	Continuing general assistance—Eligible persons.
388-37-032	Continuing general assistance—Determination of incapacity.
388-37-035	Incapacity—Medical evidence.
388-37-037	Continuing general assistance—Refusal to accept available and required medical treatment.
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	Repealed.
388-37-110	Determination of severity—General definitions.
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.
388-37-160	Progressive evaluation process Step V—Functional capacities—Physical impairments.
388-37-170	Evaluation of vocational factors for Steps VI and VII.

388-37-190 Progressive evaluation process Step VII—Assessment of capacity to perform other work.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-37-060 Congregate care—Alcoholism treatment. [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.] Repealed by 87-18-005 (Order 2525), filed 8/21/87. Statutory Authority: 1987 c 406.

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.

(9) Persons who are unemployable due to alcohol or drug addiction are not eligible for general assistance. Such persons shall be referred to the alcoholism and drug addiction treatment and support program. Alcoholics or drug addicted clients who are currently receiving general assistance, may remain on general assistance, if otherwise eligible, until they are assessed for services and until the scheduled date of admittance into treatment or shelter in accordance with the alcoholism and drug addition treatment and support program.

[Statutory Authority: 1987 c 406, 87-18-005 (Order 2525), § 388-37-010, filed 8/21/87. 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) General assistance may be granted only to persons who are either citizens or aliens who:

(a) Are lawfully admitted for permanent residence;

(b) Are otherwise permanently residing in the United States under color of law; or

(c) Have been granted temporary residency status under the Immigration Reform and Control Act.

(3) An applicant or recipient shall furnish or apply for a Social Security number per WAC 388-37-021.

(4) 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.

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

(6) 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: 1987 c 406. 87-18-005 (Order 2525), § 388-37-020, filed 8/21/87. 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 388-37-021 Provision of Social Security numbers. (1) As a condition of eligibility each applicant for or recipient of general 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 as provided in 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.

[Statutory Authority: 1987 c 406. 87-18-005 (Order 2525), § 388-37-021, filed 8/21/87.]

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) and (2). Persons incapacitated by alcoholism or drug addiction are not included in this definition, but an alcoholic or drug addict who is incapacitated due to other mental or physical conditions may be eligible for general assistance. 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) 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: 1987 c 406. 87-18-005 (Order 2525), § 388-37-030, filed 8/21/87. Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-030, filed 7/24/85; 84-19-046 (Order 2152), § 388-37-030, filed 9/17/84; 83-21-012 (Order 2034), § 388-37-030, filed 10/6/83; 83-08-025 (Order 1955), § 388-37-030, filed 3/30/83; 81-10-010 (Order 1642), § 388-37-030, filed 4/27/81; 80-02-022 (Order 1471), § 388-37-030, filed 1/9/80; 78-06-021 (Order 1295), § 388-37-030, filed 5/16/78; Order 1214, § 388-37-030, filed 6/23/77; Order 1189, § 388-37-030, filed 2/18/77; Order 1173, § 388-37-030, filed 11/24/76; Order 1102, § 388-37-030, filed 3/2/76; Order 1083, § 388-37-030, filed 12/24/75; Order 976, § 388-37-030, filed 10/28/74; Order 973, § 388-37-030, filed 9/26/74; Order 939, § 388-37-030, filed 5/23/74; Order 904, § 388-37-030, filed 1/31/74; Order 841, § 388-37-030, filed 8/9/73.]

WAC 388-37-032 Continuing general assistance--Determination of incapacity. (1) Eligibility due to incapacity shall be determined by the department in accordance with the criteria set forth in this chapter.

(2) The department shall:

(a) Consider medical and other related evidence of the incapacitating condition and make a decision confirming or denying the existence of eligibility due to incapacity within forty-five days of the date of application, except in circumstances beyond the control of the agency such as failure or delay in securing necessary information or documentation on the part of the applicant, the examining physician or other source of documentation.

(b) Request additional information when necessary.

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

(d) Require available medical treatment which can reasonably be expected to render the client able to work. The department shall provide written notification of these treatment requirements at the time of initial approval and at each redetermination.

(e) Recommend available medical services, provided under the state-financed medical care services program as defined in WAC 388-86-120.

(3) Eligibility cannot be established if an applicant fails to cooperate in obtaining information documenting incapacity. Continued failure to so cooperate during the ten-day period following the mailing of a letter to the applicant's last known address specifically citing the required cooperation shall be grounds for denial of the application for assistance.

(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. (See WAC 388-38-265.)

(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: 1987 c 406, 87-18-005 (Order 2525), § 388-37-032, filed 8/21/87. 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 (excluding alcohol/drug dependency) 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. When it appears an individual may have a developmental disability, such persons may be referred to a medical professional who is skilled in identifying developmental disabilities. Supplemental medical evidence may be obtained from other treating practitioners, to include a chiropractor, nurse, physician's assistant, or DSHS institutions and agencies from which the individual is receiving or has received services. Such reports must include a diagnosis and prognosis for the incapacitating condition and the effect of the condition on the individual's ability to perform work-related activities, along with relevant medical history and sufficient medical documentation to support any conclusions of incapacity.

(3) An individual's report of symptoms will not have a significant effect on an incapacity determination unless medical findings show that a medical condition is present that could reasonably be that expected to produce the symptoms which are reported. Clear, objective medical information, including professional observation and relevant medical history, used to support conclusions about the existence and persistence of the symptom(s) and about its effect on the individual's ability to function, must be present.

(4) The determination of incapacity will be made on the facts of each case. This requires evaluation of the severity of the impairment and its effect on the individual so it can be determined whether there remains a capacity to engage in gainful employment. The primary reason for incapacity must be a medical impairment, but vocational factors, i.e., age, education, and work skills, may also be considered. Reasons for unemployment other than incapacity, such as individual employer preferences, business and economic conditions, etc., are not factors to be considered in determining his or her inability to obtain and continue in employment.

(5) When determining incapacity, the department will take into consideration opinions of the treating or consulting physicians or health care professionals regarding incapacity. Any eligibility decision which rejects uncontradicted medical opinion must set forth clear and convincing reasons for doing so.

(6) The determination of incapacity shall be made solely by the department based on the medical information received. Any decision of incapacity or unemployment made by another agency or person is not binding on the department.

[Statutory Authority: 1987 c 406, 87-18-005 (Order 2525), § 388-37-035, filed 8/21/87. 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. For example, treatment is considered unavailable when it includes copayments or service charges not covered by the department, and the client is denied access to the treatment due to an inability to pay.

(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: 1987 c 406. 87-18-005 (Order 2525), § 388-37-037, filed 8/21/87. 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.

[Statutory Authority: 1987 c 406. 87-18-005 (Order 2525), § 388-37-038, filed 8/21/87. 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) The department may direct payment to a protective payee when a client has demonstrated an inability to care for himself/herself or his/her money. Follow procedures in WAC 388-33-455.

(3)(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.

(4) Continuing assistance shall not be authorized following the termination date specified in subsection (3) of this section until continuing incapacity has been redetermined by the department.

(5) 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: 1987 c 406, 87-18-005 (Order 2525), § 388-37-040, filed 8/21/87. 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; or

(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: 1987 c 406, 87-18-005 (Order 2525), § 388-37-050, filed 8/21/87. 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 Repealed. See Disposition Table at beginning of this chapter.

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. The term medical impairment includes physical, mental, or emotional conditions and excludes alcoholism and drug addiction.

(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 GA-U, 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 GA-U.

(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, 88-15-013 (Order 2652), § 388-37-110, filed 7/8/88; 85-15-090 (Order 2259), § 388-37-110, 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, excluding alcoholism or drug addiction, 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: 1987 c 406, 87-18-005 (Order 2525), § 388-37-120, filed 8/21/87. 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 (2)(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 diagnosed mental impairments rate "02" or higher, and with only one physical impairment rated no higher than "02," and whose overall functional level appears consistent with the rating, shall not be eligible for GA-U;

(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 GA-U, 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. 88-15-013 (Order 2652), § 388-37-130, filed 7/8/88; 85-15-090 (Order 2259), § 388-37-130, filed 7/24/85.]

WAC 388-37-135 Alcoholism/drug addiction. (1) Persons claiming incapacity based primarily on alcoholism or drug dependency shall be referred for evaluation under the alcoholism and drug addiction treatment and support program.

(2) Persons who appear to have significant mental or physical impairments resulting from or in addition to alcoholism or drug addiction should also be evaluated for general assistance when:

(a) The person indicates upon application that other physical or mental impairments may be incapacitating in themselves; or

(b) The person is rejected for the alcoholism and drug addiction treatment and support program and/or medical evidence obtained by assessment for that program indicates other significant medical impairments may exist.

(3) Any general assistance applicant or recipient who claims a secondary drinking or drug problem, or whose medical evaluation indicates such a problem appears to exist, may be required to undergo an alcohol/drug assessment.

(4) Applicants whose mental, emotional, and/or physical condition(s) is caused or exacerbated by alcoholism or drug addiction must have eligibility for general assistance based solely on the mental, emotional, and/or physical condition(s). The effects of the alcoholism or drug addiction must be differentiated from the other condition(s) in order to determine incapacity. Unless it can be reasonably established that the other condition(s) would remain incapacitating for at least sixty days of abstinence from alcohol or drugs, the individual is not eligible for general assistance.

(5) When the effects of alcoholism or drug addiction in the applicant's mental, emotional, and/or physical condition(s) cannot be clearly differentiated, the department shall refer him or her to the alcoholism and drug addiction treatment and support program for evaluation and/or treatment.

(6) The provisions in subsections (4) and (5) of this section apply to recipients as well, except that a person whose alcohol/drug addiction cannot be clearly differentiated from any physical/mental impairments and eligibility established either under the ADATSA or GA-U program will remain on GA-U subject to the provisions in WAC 388-37-050.

(7) The department may require the individual to undergo a period of alcohol or drug treatment before re-evaluating eligibility for general assistance.

(8) Persons qualifying for both general assistance and the alcoholism and drug addiction treatment and support program may choose either program.

(9) Alcoholics or drug addicts who choose general assistance in lieu of the alcoholism and drug addiction treatment and support program:

(a) Shall have their general assistance grant issued by protective payment in accordance with the criteria in WAC 388-33-420 and 388-33-455; and

(b) May be required to participate in an approved alcoholism or certified drug treatment program.

[Statutory Authority: 1987 c 406. 87-18-005 (Order 2525), § 388-37-135, filed 8/21/87. 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 individual has two or more diagnosed impairments, each of which is rated at least "02" or greater, but none rated "05," the department shall determine the overall severity rating and classify each diagnosis according to body system

based upon the *International Classification of Diseases (ICD)*, 9th revision.

(2) The department shall not consider severity ratings assigned for alcoholism or drug addiction in this process.

(3) If all the diagnosed impairments are classified within the same body system, the department shall determine the overall severity rating by considering:

(a) The rating to be equal to the highest rated impairment within that system; or

(b) In the case of multiple mild impairments, the rating may be raised to a "03" if the cumulative effects of these impairments significantly interfere with one or more basic work-related activities.

(4) If more than one body system is involved (including mental disorders), the department shall determine the overall severity using the highest rating from each body system by considering:

(a) An individual with at least two moderate impairments or at least one marked and one moderate impairment to have an overall severity rating of "04";

(b) An individual with at least two marked impairments to have an overall severity rating of "05";

(c) An individual with no individual impairments rated moderate or marked, but who has two or more impairments individually rated mild, to have an overall severity rating of "03" if the cumulative effect of these impairments significantly interferes with one or more basic work-related activities.

(5) Based on the overall severity rating, the department makes a determination of incapacity as follows:

(a) Determines an individual with an overall severity rating of "05," who meets the time limits in WAC 388-37-030(1) is eligible for GA-U;

(b) Evaluates individuals with a severity rating of "03" or "04" to determine how their multiple physical and/or mental impairments affect their functional capacity;

(c) Considers individuals with a severity rating of "02" capable of gainful employment and ineligible for GA-U as provided under WAC 388-37-110 (4)(a).

[Statutory Authority: RCW 74.08.090. 89-01-047 (Order 2733), § 388-37-140, filed 12/14/88; 88-15-013 (Order 2652), § 388-37-140, filed 7/8/88. Statutory Authority: 1987 c 406. 87-18-005 (Order 2525), § 388-37-140, filed 8/21/87. Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-140, 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, occasionally means less than one-third of

the time and frequently 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 and occasionally lifting and/or carrying such articles as dockets, ledgers, and small tools. Although a sedentary job is one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are only required occasionally and other sedentary criteria are met.

(b) Light: A person is in this category when capable of lifting twenty pounds maximum with frequent lifting and/or carrying of objects weighing up to ten pounds. Even though the weight lifted may be only a negligible amount, a job is in this category when it requires walking or standing to a significant degree, or when it involves sitting most of the time with a degree of pushing and pulling of arm and/or leg controls.

(c) Medium: A person is in this category when capable of lifting fifty pounds maximum with frequent lifting and/or carrying of objects weighing up to twenty-five pounds.

(d) Heavy: A person is in this category when capable of lifting one hundred pounds maximum with frequent lifting and/or carrying of objects weighing up to fifty pounds.

(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. 88-15-013 (Order 2652), § 388-37-160, filed 7/8/88; 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, work experience, and transferrable skills.

(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.

(5) Transferrable skills.

(a) Transferrable skills shall mean those skills acquired in performing skilled or semi-skilled work activities in past work which can be used to meet the requirements of skilled or semi-skilled work activities in other jobs or kinds of work. A person does not gain work skills by doing unskilled jobs.

(b) The client is presumed to have transferrable skills for other work in the same occupational area or in another occupational area in which:

- (i) The same or lesser degree of skill is required; and
- (ii) The same or similar equipment is used; or
- (iii) The same or similar materials, products, processes, or services are involved.

(c) Make this determination based on a description by the client of the job performed using the following occupational areas as guidelines:

- (i) Managerial and administrative;
- (ii) Professional, paraprofessional, and technical;
- (iii) Sales;
- (iv) Clerical and administrative support;
- (v) Service;
- (vi) Agriculture, forestry, and fishing; and
- (vii) Production, construction, maintenance, and material moving.

(d) There are degrees of transferability of skills, ranging from very similar to incidental similarity. A complete similarity of all three factors in subsection (5)(b) of this section is not necessary for transferability.

However, skills which are so specialized or acquired in an isolated vocational setting may not be transferrable.

[Statutory Authority: RCW 74.08.090. 88-15-013 (Order 2652), § 388-37-170, filed 7/8/88; 85-15-090 (Order 2259), § 388-37-170, 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 GA-U 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 GA-U 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 GA-U 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 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, including transferrable skills, which may have an effect on 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 GA-U.

[Statutory Authority: RCW 74.08.090. 88-15-013 (Order 2652), § 388-37-190, filed 7/8/88; 85-15-090 (Order 2259), § 388-37-190, filed 7/24/85.]

Chapter 388-38 WAC APPLICATION

WAC

388-38-110 Time limit for disposal.

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 department shall count as day one the date following the date of application.

(2) The department shall act on each application as quickly as possible and within applicable time limits unless exceptional circumstances require a longer period of time. Exceptional circumstances, subject to rules in subsection (3) of this section, considered good cause for delay in disposing of an application include, but are not limited to:

(a) The applicant did not provide requested verification within ten days of a written request;

(b) Eligibility decisions depend on medical reports and there is delay in obtaining the reports or in securing medical information;

(c) Eligibility depends on correspondence with out-of-state or intercity contacts and no other verification is available for the eligibility factor; or

(d) Eligibility depends on extensive property appraisals.

(3) For AFDC, when exceptional circumstances exist, good cause for delay in processing an application also exists only if the department:

(a) Within twenty days of the date of application, notified the applicant in writing of specific information needed to determine eligibility; and

(b) Within five calendar days of determining a need for additional information or action, notified the applicant in writing of such need; and

(c) Determined eligibility and disposed of the application within five working days of receiving all information necessary to determine eligibility; and

(d) Determined if good cause exists and documented the decision in the case record on or before the time limit for processing the application expired.

(4) The department shall dispose of applications for medical assistance in accordance with WAC 388-84-105 and 388-84-110.

[Statutory Authority: RCW 74.04.057. 88-07-118 (Order 2614), § 388-38-110, filed 3/23/88. 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 13.31, filed 1/24/64.]

Chapter 388-40 WAC ALCOHOL/DRUG PROGRAMS

WAC

388-40-010 Alcoholism detoxification program—Eligible persons.
388-40-020 Alcoholism and Drug Addiction Treatment and Support Act (ADATSA)—Program description.

388-40-030 ADATSA services.

388-40-040 Financial eligibility requirements.

388-40-050 Medical eligibility requirements.

388-40-060 Eligibility determination and review—Timeframes.

388-40-070 SSI referral requirements.

388-40-080 ADATSA assessment centers—Role.

388-40-090 ADATSA treatment modalities—Description of services, requirements, and limitations.

388-40-095 ADATSA treatment—Living allowance.

388-40-100 ADATSA shelter services.

388-40-110 ADATSA protective payee requirements.

WAC 388-40-010 Alcoholism detoxification program—Eligible persons. (1) Persons eligible for three-day detoxification services for acute alcoholic condition shall be:

(a) All grant, medical, and supplemental security income (SSI) beneficiaries; and

(b) Individuals whose combined nonexempt income and/or resources do not exceed the aid to families with dependent children (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: 1987 c 406. 87-18-006 (Order 2526), § 388-40-010, filed 8/21/87. 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.]

WAC 388-40-020 Alcoholism and Drug Addiction Treatment and Support Act (ADATSA)—Program description. (1) The Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) is a legislative enactment which provides state-financed treatment and support to indigent alcoholics and drug addicts.

(2) The purpose of ADATSA is to assist in the rehabilitation of those alcoholics and drug addicts who can benefit from available community treatment programs, and to provide a program of shelter services to meet the basic needs of those who cannot benefit from such programs.

[Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-020, filed 8/21/87.]

WAC 388-40-030 ADATSA services. (1) Persons who qualify for the ADATSA program shall be eligible for:

(a) A continuum of alcohol/drug treatment services and support as described in WAC 388-40-090, or

(b) Shelter services as described in WAC 388-40-100.

(2) Recipients of ADATSA are eligible for medical care services as described in WAC 388-86-120.

[Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-030, filed 8/21/87.]

WAC 388-40-040 Financial eligibility requirements.

(1) An applicant/recipient of ADATSA shall:

(a) Be at least eighteen years of age,

(b) Be a resident of the state of Washington as defined in WAC 388-26-055 and either a United States citizen or alien who:

(i) Is lawfully admitted for permanent residence; or

(ii) Is otherwise permanently residing in the United States under color of law; or

(iii) Has been granted temporary residency status under the Immigration Reform and Control Act.

(c) Furnish the department with his or her Social Security number. If the applicant cannot furnish a Social Security number because it has not been issued or is not

known, he or she shall apply for a number prior to authorization of assistance. The applicant shall provide the Social Security number to the department upon receipt.

(d) Meet the same income and resource eligibility requirements as for the general assistance-unemployable (GA-U) program, except persons excluded from GA-U under WAC 388-37-010 because they are recipients of federal aid may be eligible for ADATSA residential treatment services.

(2) Applicants/recipients placed in an alcohol or drug congregate care facility shall meet the payment and procedural requirements set forth in WAC 388-15-568. However, the department shall not require recipients receiving services in an intensive alcoholism/drug treatment program of thirty days or less, as defined in WAC 275-19-020, to participate in the cost of care.

(3) The department shall require recipients with income in excess of the clothing and personal incidental standard to contribute that excess toward the cost of their care in a recovery house, extended care recovery house, or long-term care or drug residential treatment facility beginning the month following the month of admission. The department shall compute this participation amount according to the rules applicable to the program under which the benefits are received.

[Statutory Authority: RCW 74.50.010. 88-13-110 (Order 2635), § 388-40-040, filed 6/21/88. Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-040, filed 8/21/87.]

WAC 388-40-050 Medical eligibility requirements.

(1) If otherwise eligible, ADATSA assistance shall be granted to alcoholics and drug addicts whose chemical dependency is severe enough to render them incapable of gainful employment.

(2) Incapacity based on alcoholism or drug addiction shall be determined by a department designated chemical dependency assessment center. The assessment center is the department's sole source of medical evidence required for the diagnosis and evaluation of alcoholism/drug addiction and its effects on employability.

(a) The department shall require such an assessment in writing for all ADATSA applicants.

(b) The costs of assessments needed to determine eligibility shall be paid for by the department.

[Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-050, filed 8/21/87.]

WAC 388-40-060 Eligibility determination and review—Timeframes. The department shall:

(1) Make a decision confirming or denying eligibility for ADATSA 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.

(2) Redetermine incapacity and financial and medical eligibility for ADATSA at least every six months except that those recipients who are receiving only shelter services may have their incapacity reviewed yearly.

(3) Provide adequate and advance notice of adverse action in accordance with WAC 388-33-376.

[Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-060, filed 8/21/87.]

WAC 388-40-070 SSI referral requirements. (1) Any applicant/recipient whom the department determines may be potentially eligible for Supplemental Security Income (SSI) must:

- (a) Make application for SSI, and
- (b) Assign the initial SSI payment to the department of social and health services up to the amount of ADATSA assistance provided to the recipient pending approval of the SSI application.

(2) The department shall assist ADATSA applicants/recipients in making application for SSI and in obtaining the necessary documentation required by the Social Security Administration to establish eligibility.

[Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-070, filed 8/21/87.]

WAC 388-40-080 ADATSA assessment centers--Role. (1) ADATSA assessment centers shall:

(a) Be responsible for diagnostic evaluation and placement; and

(b) Not be responsible for providing direct treatment.

(2) The assessment center shall, in accordance with standards set forth under chapter 275-19 WAC, conduct a face-to-face diagnostic assessment of the applicant to:

(a) Determine incapacity based on alcoholism or drug addiction; and

(b) Determine whether the incapacitated applicant is willing and able to undergo a course of treatment or desires shelter or medical assistance only.

(3) Once the applicant's financial and medical eligibility is established, the assessment center shall:

(a) Arrange all placements into treatment and/or shelter facilities;

(b) Provide the applicant with written notification of the applicant's right to return to the CSO at any time while receiving ADATSA treatment or shelter assistance. This includes, but is not limited to, those situations where the ADATSA recipient is discharged from any inpatient, recovery house, outpatient, or shelter facility providing services under contract to the department;

(c) Provide the applicant with written notification of the applicant's right to request a fair hearing to challenge any action which affects eligibility for ADATSA treatment or shelter assistance;

(d) Provide ongoing case monitoring of treatment and/or shelter services; and

(e) Notify the community services office promptly of all placement or eligibility status changes.

[Statutory Authority: RCW 74.08.090. 89-01-093 (Order 2740), § 388-40-080, filed 12/21/88. Statutory Authority: RCW 74.50.010. 88-13-110 (Order 2635), § 388-40-080, filed 6/21/88. Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-080, filed 8/21/87.]

WAC 388-40-090 ADATSA treatment modalities--Description of services, requirements, and limitations. (1) The department shall offer ADATSA treatment services to eligible applicants/recipients incapacitated by alcoholism or drug addiction.

(2) The department shall limit treatment services to a total of six months in a twenty-four month period. The twenty-four month period begins on the date of initial entry into treatment.

(3) The assessment center shall determine a course of treatment based on an individual assessment of alcohol/drug involvement, and treatment needs in accordance with RCW 70.96A.100(2) and the procedures in WAC 275-19-185.

(4) Treatment may consist of residential and/or outpatient services.

(5) The department shall limit residential treatment to the following services:

(a) Intensive inpatient treatment, not to exceed thirty days per admission;

(b) Recovery house treatment, not to exceed sixty days per admission;

(c) Extended care recovery house treatment, not to exceed ninety days;

(d) Long-term care residential treatment, not to exceed one hundred eighty days;

(e) Drug residential treatment, not to exceed one hundred eighty days.

(6) An applicant/recipient shall qualify for up to six months of outpatient treatment services if the assessment center determines that residential treatment is not necessary or appropriate. The assessment center shall base this determination on clinical or medical factors which would indicate the likelihood that an applicant/recipient would succeed in a less structured primary treatment modality. Such factors may include an assessment of former treatment history, the number of detoxification admissions, and the chronicity, and degree of incapacity of the applicant/recipient. The assessment center shall also consider social factors such as the availability of social support systems, family support, and stable living arrangement when evaluating the individual's ability to benefit from primary outpatient treatment.

(7) ADATSA recipients who withdraw from treatment for any reason shall be subject to termination and shall reapply and/or be rereferred to the assessment center if they wish further ADATSA services.

(a) Recipients who drop out of treatment in the intensive inpatient phase may be required to repeat this phase.

(b) Recipients who drop out of treatment during the recovery house or outpatient phase may be required to return to the modality from which they dropped out or may be required to enter intensive inpatient treatment if, in the clinical judgment of the assessment center, a more structured form of treatment seems warranted. The assessment center shall refer to inpatient or residential treatment those recipients who demonstrate an inability to remain abstinent in outpatient treatment.

(c) Recipients who have been absent from inpatient treatment or other residential services for less than seventy-two hours may, at full discretion of the providing program director, reenter that program without being

considered as having dropped out and without being required to reapply for readmittance through the assessment center.

[Statutory Authority: RCW 74.50.010. 88-13-110 (Order 2635), § 388-40-090, filed 6/21/88. Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-090, filed 8/21/87.]

WAC 388-40-095 ADATSA treatment--Living allowance. (1) ADATSA recipients in residential treatment shall be eligible for an allowance based on the department's current payment standard for clothing and personal incidentals.

(2) ADATSA recipients in the outpatient treatment modality shall be eligible for a treatment stipend for housing and other living expenses.

(a) The department shall base the stipend amount on the current payment standard for public assistance recipients;

(b) The department shall issue this stipend directly to the outpatient facility as custodial (protective) payee; and

(c) The department shall not authorize the use of any treatment stipend to pay for shelter in a dormitory setting not requiring sobriety as a condition of residence.

[Statutory Authority: RCW 74.50.010. 88-13-110 (Order 2635), § 388-40-095, filed 6/21/88.]

WAC 388-40-100 ADATSA shelter services. (1) The department shall provide shelter services to eligible ADATSA applicants/recipients:

(a) Who refuse treatment; or

(b) Who have exhausted their six months of treatment in a twenty-four month period; or

(c) Who are in temporary need of shelter pending placement into a treatment facility.

(2) Eligible applicants/recipients wishing shelter services shall have their choice of:

(a) Placement by the assessment center into a department-contracted shelter facility which provides room and board; or

(b) A shelter assistance payment, through a protective payee, for independent housing and basic needs.

(3) The department shall provide assistance for independent housing only to recipients who will be residing in a permanent residential structure. These recipients must also have a deed of purchase, rental agreement, or other verifiable written agreement between themselves and the person or entity to whom they are obligated for shelter costs or from whom they are receiving supplied shelter.

(4) The department shall base the amount of assistance for independent housing and basic needs on the appropriate payment standard in WAC 388-29-100 (3)(a) or (b). For recipients in a contracted shelter facility, the department shall provide an allowance for clothing and personal incidentals based on the standard in WAC 388-29-130.

(5) Recipients receiving contracted shelter services who subsequently leave shelter without notice for more

than seventy-two hours, or are discharged from the facility for disciplinary reasons, shall be subject to termination. Upon reapplication and/or re-referral, the assessment center shall again offer treatment and/or shelter as appropriate.

[Statutory Authority: RCW 74.08.090. 89-01-093 (Order 2740), § 388-40-100, filed 12/21/88. Statutory Authority: RCW 74.50.010. 88-13-110 (Order 2635), § 388-40-100, filed 6/21/88. Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-100, filed 8/21/87.]

WAC 388-40-110 ADATSA protective payee requirements. (1) The department shall pay the assistance needs of recipients receiving outpatient treatment or shelter assistance in independent housing by protective payee or vendor payment. See WAC 388-33-455 for protective payee selection criteria.

(2) An ADATSA protective payee shall have the authority and responsibility to make decisions about the expenditure of outpatient treatment stipends or shelter assistance. Disbursement of funds shall be made first to assure the basic needs of shelter, utilities, food, clothing, and personal incidentals are met.

(a) The protective payee for a recipient in outpatient treatment shall encourage the recipient to participate in the decision-making process as a means of developing good money management, budgeting, and decision-making skills. The amount of control or latitude exercised shall depend upon the recipient's status in treatment and the judgment of the protective payee as to how responsible the recipient has become.

(b) The protective payee for a shelter assistance recipient shall first disburse a payment for shelter and utilities, such as a check directly to the landlord, mortgage company, utility company, etc.

(3) The protective payee may use his or her discretion on the method of disbursing to the recipient any cash balance remaining from the recipient's monthly assistance warrant. The protective payee has the authority to apportion any remaining funds to the recipient at regular intervals throughout the month.

(4) In the event the recipient and/or protective payee relationship is terminated for any reason, the protective payee shall return any remaining funds to the department.

(5) The department has legislative authority, through June 30, 1990, to establish and maintain an intensive protective payee pilot project. The project shall evaluate whether tighter control of the recipient's ADATSA funds by the protective payee can prevent the diversion of assistance for purchasing alcohol and drugs.

(a) The department shall limit project participation to ADATSA recipients in King, Snohomish, or Skagit counties who choose shelter assistance in independent housing.

(b) The department shall choose all project participants by unbiased scientific sampling. Once an applicant/recipient is chosen to participate, the department shall assign a protective payee designated specifically for the pilot project. The recipient shall participate in the project for as long as he or she continues to reside in the

project area, remains eligible for ADATSA, and wants shelter assistance in independent housing.

(i) The recipient has the right to request a change of protective payees within the project if dissatisfied with the department's selection of a particular protective payee. If the department determines good cause exists for the change, it shall reassign the recipient to another protective payee within the pilot project.

(ii) The recipient does not have the right to removal or exemption from the project in order to acquire a less restrictive protective payee.

(c) In addition to the responsibilities and authority set forth in subsections (2)(b) and (3) of this section, the project protective payees shall:

(i) Pay all vendors directly for goods or services provided to or for the recipient, including personal and incidental expenses; and

(ii) Make exceptions only where unusual circumstances prevent direct payment and the client is unlikely to divert the money to purchasing alcohol or drugs.

[Statutory Authority: RCW 74.50.010. 88-23-020 (Order 2723), § 388-40-110, filed 11/7/88; 88-13-110 (Order 2635), § 388-40-110, filed 6/21/88.]

Chapter 388-42 WAC
FUNERAL EXPENSE

WAC
388-42-150 Maximum cost standards.

WAC 388-42-150 Maximum cost standards.

(1) Mortuary services—Actual costs, but not to exceed:

- (a) Essential services only \$ 273
(b) Essential services plus funeral/memorial service \$ 626

(2) Burial services—Actual costs, but not to exceed:

- (a) Burial only, no plot included \$ 342
(b) Burial with plot included, single or multiple interment \$ 395

(3) Cremation services—Actual costs, but not to exceed:

- (a) Cremation only \$ 162
(b) Cremation and disposition \$ 243

(4) These standards include all applicable taxes.
(5) These standards shall be effective September 1, 1988.

[Statutory Authority: RCW 74.08.090. 88-18-023 (Order 2682), § 388-42-150, filed 8/30/88. Statutory Authority: 1987 c 7. 87-24-073 (Order 2563), § 388-42-150, filed 12/2/87. 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
388-44-035 Overpayment—Amount.
388-44-330 Time limits, write-offs, and compromises.

WAC 388-44-035 Overpayment—Amount. (1) The amount of overpayment shall be the amount of assistance received, including medical care, for which the assistance unit was not entitled.

(2) The amount of the overpayment in subsection (1) of this section shall be reduced by:

(a) The amount of assistance the unit would be eligible to receive from any other category of assistance during the period of ineligibility; and

(b) The amount of child support the department received for the month of overpayment in excess of the amount of assistance the assistance unit was entitled; or

(c) The amount of excess support in subsection (2)(b) of this section minus the amount of support already distributed to the assistance unit according to WAC 388-14-270 (2)(a), if ineligibility exists.

(3) When establishing an overpayment, reduce any overpayment by the amount of any underpayment.

[Statutory Authority: RCW 74.08.090. 88-19-070 (Order 2699), § 388-44-035, filed 9/16/88. 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 388-44-330 Time limits, write-offs, and compromises. (1) The department shall not collect an overpayment due the state after the expiration of six years from the date of notice unless:

(a) The department has commenced recovery action in a court of law; or

(b) An administrative remedy authorized by statute is in place.

(2) The department shall cease collection on a case, extended as a result of subsection (1)(a) and (b) of this section, at the end of ten years unless a court order is in effect for a longer period.

(3) The department may accept an offer of compromise from the debtor after collection efforts have begun when the debtor offers an amount:

(a) Equal to or exceeding the amount expected to be collected within the statute of limitations; or

(b) From nonattachable income or resources and it is unlikely the debtor shall return to public assistance or be gainfully employed before the expiration of the statute of limitations; or

(c) Exceeding the projected cost of collection enforcement efforts.

(4) To achieve a compromise offer, the department may accept a lump sum payment or an extended repayment agreement from the debtor. The department may decide to make the extended repayment agreement subject to accelerated payment if the debtor's financial condition significantly changes. Prior to the expiration of the collection period allowed by statute, the department may write off from the account receivable records the amount of the original balance that remains uncollected after the debtor pays the compromise amount.

(5) The department may clear an amount from its account receivable records prior to the expiration of the statutory collection period when there is no further possibility of collection.

[Statutory Authority: RCW 43.20B.030, 88-13-059 (Order 2633), § 388-44-330, filed 6/14/88.]

Chapter 388-49 WAC
FOOD ASSISTANCE PROGRAMS
(Formerly chapter 388-54 WAC)

WAC

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WAC 388-49-010 Purpose of program. The food stamp program promotes the general welfare and well-being of the nation's population by raising the nutritional levels of program participants. The program permits low-income households to obtain a more nutritious diet through increased purchasing power.

[Statutory Authority: RCW 74.04.050, 88-02-031 (Order 2575), § 388-49-010, filed 12/31/87.]

WAC 388-49-015 General provisions. (1) The rules in this chapter are for the purpose of administering the food stamp program. Rules and definitions in other chapters of Title 388 of the Washington Administrative Code do not apply to provisions of this chapter unless specifically identified.

(2) 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.

(3) The department shall comply with all FNS directives to reduce, suspend, or terminate all or any portion of the food stamp program.

(4) During a presidential or FNS-declared disaster, the department shall certify affected households in accordance with FNS instructions.

(5) The department shall retain:

(a) Food stamp case records for three years from the month of origin of each record, and

(b) Fiscal and accountable documents for three years from the date of fiscal or administrative closure.

(6) The department shall not discriminate against any applicant or participant in any aspect of program administration for reason of:

- (a) Age,
- (b) Race,
- (c) Color,
- (d) Sex,
- (e) Handicap,

- (f) Religious creed,
- (g) Political beliefs, or
- (h) National origin.

(7) The department shall display nondiscrimination posters provided by FNS in all offices administering the food stamp program.

(8) An individual believing he or she has been subject to discrimination may file a written complaint with the:

- (a) Food and nutrition service, or
- (b) State office for equal opportunity.

(9) The department shall restrict use or disclosure of information obtained from applying or participating households to:

(a) Individuals directly connected with the administration or enforcement of the provisions of:

- (i) The Food Stamp Act or regulations,
- (ii) Other federal assistance programs, or

(iii) Federally assisted state programs providing assistance on a means-tested basis to low-income individuals.

(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:

(i) Identity of the individual requesting the information,

(ii) Authority of the individual to make the request,

(iii) Violation being investigated, and

(iv) Identity of the person about whom the information is requested.

(10) The department shall make the household's case file available to the household or household's representative for inspection during regular office hours as provided in chapter 388-320 WAC.

(11) The department shall make the following program information available to the public upon request during regular office hours:

(a) Federal regulations, federal procedures in FNS notices and policy memos, and the state plan of operation at the state office; and

(b) Washington Administrative Code and the *Food Stamp Procedures Manual* at the local office.

(12) The coupon allotment provided any eligible household shall not be considered income or resources for any purpose under any federal, state, or local laws.

(13) The department shall not permit volunteers or other persons not employees of the department to conduct certification interviews or certify food stamp applicants except:

(a) During a presidential or FNS-declared disaster, or

(b) Social Security Administration (SSA) employees for Supplemental Security Income (SSI) households as provided in WAC 388-49-040.

(14) The provisions of Title 18 of the United States Code, "Crimes and Criminal Procedures," relative to counterfeiting, misuse, and alteration of obligations of the United States are applicable to food coupons.

[Statutory Authority: RCW 74.04.510, 88-18-058 (Order 2685), § 388-49-015, filed 9/1/88. Statutory Authority: RCW 74.04.050, 88-02-031 (Order 2575), § 388-49-015, filed 12/31/87.]

WAC 388-49-020 Definitions. (1) "Administrative disqualification hearing" means a formal hearing to determine whether or not an individual committed an intentional program violation.

(2) "Administrative error overissuance" means any overissuance caused solely by department action or failure to act when the household properly and accurately reported all the household's circumstances to the department.

(3) "Administrative law judge" means an employee of the office of administrative hearings empowered to conduct contested case hearings.

(4) "Aid to families with dependent children (AFDC) program" means the federally funded public assistance program for dependent children and their families authorized under Title IV-A of the Social Security Act.

(5) "Allotment" means the total value of coupons a household is certified to receive during a calendar month.

(6) "Application process" means the filing and completion of an application form, interview or interviews, and verification of certain information.

(7) "Authorized representative" means an adult non-household member sufficiently aware of household circumstances designated in writing by the head of the household, spouse, or other responsible household member to act on behalf of the household.

(8) "Beginning months" means the first month the household is eligible for benefits, and the month thereafter. The first beginning month cannot follow a month in which a household was certified eligible to receive benefits.

(9) "Benefit level" means the total value of food stamps a household is entitled to receive based on household income and circumstances.

(10) "Boarder" means an individual, except a person described in WAC 388-49-190 (2)(a), (b), (c), or (d), who is:

(a) Residing with the household; and

(b) Paying reasonable compensation to the household for lodging and meals.

(11) "Budget month" means the first month of the monthly reporting cycle; the month for which the household reports their circumstances.

(12) "Certification period" means definite period of time within which the household has been determined eligible to receive food stamps.

(13) "Child" means someone under eighteen years of age and under parental control.

(14) "Collateral contact" means contact with someone outside of the household to confirm the household's circumstances.

(15) "Commercial boarding home" means an enterprise offering meals and lodging for compensation with the intent of making a profit.

(16) "Dependent care deduction" means costs incurred by a household member for care provided by a nonhousehold member when the care is necessary for a

household member to seek, accept, or continue employment, or attend training or education preparatory to employment.

(17) "Destitute household" means a household with migrant or seasonal workers with little or no income at the time of application in need of immediate food assistance.

(18) "Disabled person" means a person who meets one of the following criteria:

(a) Receives supplemental Security Income (SSI) under Title XVI of the Social Security Act;

(b) Receives disability or blindness payments under Titles I, II, XIV, or XVI of the Social Security Act;

(c) Is a veteran with service-connected disability rated or paid as a total under Title 38 of the United States Code (USC), or considered in need of regular aid and attendance, or permanently housebound under such title;

(d) Is a surviving spouse of a veteran and considered in need of aid and attendance, or permanently housebound; or a surviving child of a veteran and considered to be permanently incapable of self-support under Title 38 of the USC; or

(e) A surviving spouse or child of a veteran and entitled to compensation for service-connected death or pension benefits for a nonservice-connected death under Title 38 of the USC and has a disability considered permanent under section 221(i) of the Social Security Act.

(19) "Documentary evidence" means written confirmation of a household's circumstances.

(20) "Documentation" means the process of recording the source, date, and content of verifying information.

(21) "Elderly person" means a person sixty years of age or older.

(22) "Eligible food" means, for a homeless food stamp household, meals prepared for and served by an authorized homeless meal provider.

(23) "Entitlement" means the food stamp benefit a household received including a disqualified household member.

(24) "Equity value" means fair market value less encumbrances.

(25) "Expedited services" means quick provision of food stamps within five calendar days to an eligible household which:

(a) Has liquid resources of one hundred dollars or less; and

(b) Has gross monthly income under one hundred fifty dollars; or

(c) Has combined gross income and liquid resources which are less than the household's current monthly rent or mortgage and actual utility costs; or

(d) Includes all members who are homeless individuals; or

(e) Includes destitute migrant or seasonal farm workers.

(26) "Fair hearing" means a hearing conducted by the office of administrative hearings at the client's request to decide whether action taken or intended action by the department is correct.

(27) "Fair market value" means the value at which a prudent person might sell the property if the person was not forced to sell.

(28) "Food coupon" means food stamps and the two terms are interchangeable.

(29) "Food coupon authorization (FCA) card" means the document issued by the local or state office to authorize the allotment the household is eligible to receive.

(30) "Food stamp monthly reporting cycle" means the budget month, the process month, and the payment month.

(31) "Gross income eligibility standards" means one hundred thirty percent of the federal poverty level for the forty-eight contiguous states.

(32) "Group living arrangement" means a public or private nonprofit residential setting serving no more than sixteen residents certified by the appropriate state agency under section 1616(e) of the Social Security Act.

(33) "Head of household" means:

(a) The person designated by the household to be named on the case file, identification card, and FCA card;

(b) For employment services or the voluntary quit provision, the household member who is the principal wage earner with the greatest source of earned income in the two months prior to the month of violation, including members not required to register, provided:

(i) The employment involves at least twenty hours per week; and

(ii) The person is not living with a parent or a person fulfilling that role who is:

(A) Registered for work,

(B) Exempt from work registration because of registration in a Title IV-A or IV-C work program of the Social Security Act, as amended, or the receipt of unemployment compensation, or

(C) Employed or self-employed and working a minimum of thirty hours per week, or receiving weekly earnings equal to the federal minimum wage multiplied by thirty hours.

(34) "Home visit" means a personal contact at the person's residence by a department employee. The home visit shall be scheduled in advance with the household.

(35) "Homeless food stamp household" means an eligible food stamp household having no fixed mailing address or not residing in a permanent dwelling.

(36) "Homeless meal provider" means a public or private nonprofit establishment (e.g., soup kitchen, temporary shelter, mission, or other charitable organizations) feeding homeless persons, approved by division of income assistance (DIA) and authorized by FNS.

(37) "Household" means the basic client unit in the food stamp program.

(38) "Household disaster" means when food purchased with food stamps are destroyed by a natural disaster, such as flood, fire, etc.

(39) "Identification card" means the document identifying the bearer as eligible to receive and use food stamps.

(40) "Inadvertent household error overissuance" means any overissuance caused by misunderstanding or unintended error on the part of the household.

(41) "Ineligible household member" means a member who is excluded from the food stamp household because of:

- (a) Disqualification for intentional program violation;
- (b) Failure to apply for or provide a Social Security number;
- (c) Failure to comply with work registration requirements;
- (d) Status as an ineligible alien; or
- (e) Status as an ineligible student.

(42) "Institution" means any place of residence (private or public) providing maintenance and meals for two or more persons.

(43) "Institution of higher education" means any institution normally requiring a high school diploma or equivalency certificate for enrollment. This includes any two-year or four-year college. Also included is any course in a trade or vocational school that normally requires a high school diploma or equivalency for admittance to the course.

(44) "Intentional program violation," after August 8, 1983, means intentionally:

- (a) Making a false or misleading statement;
- (b) Misrepresenting, concealing, or withholding facts; or

(c) Committing 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.

Intentional program violation which ended prior to August 8, 1983, 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; and
- (f) Trade or sell coupons or authorization cards.

(45) "Intentional program violation overissuance" means any overissuance caused by an intentional program violation.

(46) "Live-in attendant" means an individual residing with a household to provide medical, housekeeping, child care, or other similar personal services.

(47) "Lump sum" means money received in the form of a nonrecurring payment including, but not limited to:

- (a) Income tax refunds,
- (b) Rebates,
- (c) Retroactive payments, and
- (d) Insurance settlements.

(48) "Mandatory fees" means those fees charged to all students within a certain curriculum. Transportation, supplies, and textbook expenses are not uniformly charged to all students and are not considered as mandatory fees.

(49) "Migrant farmworker" means an individual working in seasonal agricultural employment and who is required to be absent overnight from his or her permanent place of residence.

(50) "Net income eligibility standard" means the federal income poverty level for the forty-eight contiguous states.

(51) "Nonhousehold member" means a person who is not considered a member of the food stamp household such as:

- (a) A roomer;
- (b) A live-in attendant; or
- (c) An individual who does not purchase and prepare meals with the food stamp household.

(52) "Nonstriker" means any person:

(a) Exempt from work registration the day prior to the strike for reasons other than their employment;

(b) Unable to work as a result of other striking employees, e.g., truck driver not working because striking newspaper pressmen not printing output;

(c) Not part of the bargaining unit on strike but not wanting to cross picket line due to fear of personal injury or death; or

(d) Unable to work because workplace is closed by employer in order to resist demands of employees, e.g., a lockout.

(53) "Offset" means reduce restored benefits by any overissue (claim) owed by the household to the department.

(54) "Overissuance" means the amount of coupons issued to a household in excess of the amount eligible to receive.

(55) "Overpayment" means the same as "overissuance" and shall be the preferred term used in procedures.

(56) "Payment month" means the third month of the budget cycle; the month in which the food stamp allotment is affected by information reported on the monthly report for the budget month.

(57) "Period of intended use" means the period for which an FCA or food coupon is intended to be used.

(58) "Post secondary education" means a school not requiring a high school diploma or equivalency for enrollment. This includes trade school, vocational schools, business colleges, beauty schools, barber schools, etc.

(59) "Process month" means the second month of the monthly reporting cycle; the month in which the monthly report is to be returned by the household to the local office.

(60) "Project area" means the county or similar political subdivision designated by the state as the administrative unit for program operations.

(61) "Prospective budgeting" means the computation of a household's income based on income received or anticipated income the household and department are

reasonably certain will be received during the month of issuance.

(62) "Prospective eligibility" means the determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

(63) "Quality control review" means a review of a statistically valid sample of cases to determine the accuracy of budgeting, issuance, denial, withdrawal, and termination actions taken by the department.

(64) "Quality control review period" means the twelve-month period from October 1 of each calendar year through September 30 of the following calendar year.

(65) "Recent work history" means receipt of earned income in one of the two months prior to the payment month.

(66) "Recertification" means approval of continuing benefits based on an application submitted prior to the end of the current certification period.

(67) "Resident of an institution" means a person who resides in an institution that provides the individual with the majority of meals as part of the institution's normal service.

(68) "Retrospective budgeting" means the computation of a household's income for a payment month based on actual income received in the corresponding budget month of the monthly reporting cycle.

(69) "Retrospective eligibility" means the determination of eligibility based on retrospective budgeting rules and other circumstances existing in the budget month.

(70) "Roomer" means an individual to whom a household furnishes lodging, but not meals, for compensation.

(71) "Seasonal farmworker" means an individual working in seasonal agricultural employment who is not required to be absent from his or her permanent place of residence overnight.

(72) "Shelter costs" means:

(a) Rent or mortgage payments plus taxes on a dwelling and property;

(b) Insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated;

(c) Assessments;

(d) Utility costs such as heat and cooking fuel, cooling and electricity, water, garbage, and sewage disposal;

(e) Standard basic telephone allowance;

(f) Initial installation fees for utility services; and

(g) 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.

(73) "Shelter for battered women and children" means a public or private nonprofit residential facility serving battered women and children.

(74) "Sibling" means a natural, adopted, half brother or stepbrother or natural, adopted, half sister or stepsister.

(75) "Sponsor" means a person who executed an affidavit of support or similar agreement on behalf of an

alien as a condition of the alien's admission into the United States as a permanent resident.

(76) "Sponsored alien" means an alien lawfully admitted for permanent residence.

(77) "Spouse" means:

(a) Married under applicable state law; or

(b) Living with another person and holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

(78) "Striker" means any person:

(a) Involved in a strike or concerted stoppage of work by employees including stoppage due to expiration of a collective bargaining agreement; or

(b) Involved in any concerted slowdown or other concerted interruption of operations by employees.

(79) "Student" means any person:

(a) Between eighteen and sixty years of age,

(b) Physically and mentally fit for employment, and

(c) Enrolled at least half time in an institution of higher education.

(80) "Thrifty food plan" means the diet required to feed a family of four as determined by the United States Department of Agriculture. The cost of the diet is the basis for all allotments, taking into account the household size adjustments based on a scale.

(81) "Under parental control" means living with the parent or any adult other than the parent. A person is not under parental control when that person is:

(a) Receiving an aid to families with dependent children (AFDC) grant as his or her own payee;

(b) Receiving gross income equal to, or exceeding, the AFDC grant payment standard; or

(c) Married.

(82) "Vehicle" means any device for carrying or conveying persons and objects, including travel by land, water, or air.

(83) "Vendor payment" means money payments not owed or payable directly to a household, but paid to a third party for a household expense, such as:

(a) A payment made in money on behalf of a household whenever another person or organization makes a direct payment to either the household's creditors or a person or organization providing a service to the household; or

(b) Rent or mortgage payments, made to landlords or mortgagees by the department of housing and urban development or by state or local housing authorities.

(84) "Verification" means the use of documentation or third-party information to establish the accuracy of statements on the application. Sources of verification shall be documentary evidence, collateral contacts, or a home visit.

[Statutory Authority: RCW 74.04.050. 88-16-081 (Order 2662), § 388-49-020, filed 8/2/88. Statutory Authority: RCW 74.04.510. 88-08-080 (Order 2618), § 388-49-020, filed 4/6/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-020, filed 12/31/87.]

WAC 388-49-030 Filing an application. (1) The department shall:

(a) Make application forms readily available, and

(b) Provide an application to any person requesting one.

(2) A person shall file an application by submitting the form to the CSO:

- (a) In person,
- (b) By mail, or
- (c) Through an authorized representative.

(3) A household consisting of SSI members may file an application at the Social Security Administration district office (SSADO).

(4) A person has a right to file an application on the same day he or she contacts the department.

(5) The department shall accept an incomplete application filed by a responsible household member or authorized representative who:

- (a) Completes the name and address, and
- (b) Signs the application.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-030, filed 12/31/87.]

WAC 388-49-040 Supplemental security income households. (1) The department shall complete certification of applications processed by SSADO no later than thirty days after the date a food stamp application is filed at the SSADO.

(2) The department shall begin the expedited service time frame on the date the correct community services office (CSO) receives the application.

(3) The department shall complete recertification when a timely request has been made through SSADO.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-040, filed 12/31/87.]

WAC 388-49-050 Authorized representative. (1) An authorized representative shall be a person who:

- (a) Applies for coupons on behalf of the household,
- (b) Obtains coupons for the household, and
- (c) May use the coupons to purchase food for the household.

(2) The department shall inform the household it will be held liable for any overissuance resulting from erroneous information supplied by the authorized representative.

(3) The department shall certify residents of alcohol or drug treatment centers through an authorized representative who is a designated employee of the facility.

(4) The department shall certify residents of group living arrangements:

- (a) Through an authorized representative who is a designated employee of the facility, or
- (b) Through an authorized representative of their own choosing, or
- (c) On their own behalf.

(5) An employee of the department shall not act as an authorized representative without the written approval of the CSO administrator.

(6) An authorized representative may act on behalf of more than one household with CSO administrator approval.

(7) Persons disqualified for intentional program violation shall not be designated as authorized representatives unless no other is available.

(8) The department shall disqualify a person from acting as an authorized representative for up to one year when the authorized representative:

- (a) Knowingly provides false information,
- (b) Misrepresents the household's circumstances, or
- (c) Misuses the food coupons.

(9) The department shall send written notice to the affected household and the authorized representative thirty days prior to the disqualification in subsection (8) of this section.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-050, filed 12/31/87.]

WAC 388-49-060 Interview process. (1) The department shall conduct a face-to-face interview prior to certification and recertification. The person interviewed shall be:

- (a) Any responsible household member, or
- (b) An authorized representative.

(2) The person being interviewed may bring any person to the interview.

(3) Unless waived, the department shall conduct an interview:

- (a) At the CSO, or
- (b) At the Social Security Administration district office for SSI households.

(4) If waived, the department shall conduct an interview:

- (a) Through a scheduled home visit, or
- (b) Over the telephone.

(5) The department shall waive an office interview if the household:

- (a) Has no responsible member able to visit the office because of hardships; and
- (b) Is unable to appoint an authorized representative; and
- (c) Requests a waiver.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-060, filed 12/31/87.]

WAC 388-49-070 Public assistance households. (1) The department shall conduct a single interview at initial application for public assistance and food stamps.

(2) The department shall not delay the household's food stamp benefits pending verification of the public assistance eligibility.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-070, filed 12/31/87.]

WAC 388-49-080 Expedited service. (1) The department shall provide expedited service for applying households when the household:

- (a) Has liquid resources of one hundred dollars or less; and
- (b) Has gross monthly income under one hundred fifty dollars; or

(c) Has combined gross income and liquid resources which are less than the household's current monthly rent or mortgage and actual utilities costs; or

(d) Includes all members who are homeless individuals; or

(e) Includes destitute migrant or seasonal farm workers.

(2) The department shall provide food stamps to households eligible for expedited services by the end of the fifth calendar day following the date the application was filed.

(3) The department shall provide food stamps to residents of drug and alcohol treatment centers and group living arrangements eligible for expedited service, by the fifth calendar day following the date of application.

(4) When certifying a household eligible for expedited service, the department shall:

(a) Verify the household's identity;

(b) Make a reasonable effort to verify residence, income, liquid resources, and all other required verifications within the expedited processing standards;

(c) Require the applicant to register for work unless exempt or the authorized representative is applying for the household and shall attempt to register other household members;

(d) Issue benefits within five calendar days for expedited service; and

(e) Assist the household in obtaining necessary verification.

(5) The department shall certify an expedited service household, based on certification periods in WAC 388-49-160, when all necessary verification has been provided.

(6) The department shall certify for one month when necessary verification has been postponed.

(7) The department shall certify for the month of application and the subsequent month when:

(a) Verification is postponed, and

(b) The application is received after the fifteenth of the month.

(8) There is no time limit to the number of times a household may receive expedited service provided:

(a) The household completes the postponed verification requirements, or

(b) The household was certified under the thirty-day processing standard since the last expedited certification.

(9) The department shall conduct an out-of-office interview and complete the application process within the expedited service standard when a household is entitled to expedited service and a waiver of the office interview.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-080, filed 12/31/87.]

WAC 388-49-090 Destitute household. (1) The department shall consider a migrant or seasonal farm worker destitute when:

(a) The household's income for the month of application was received prior to the date of application and was from a terminated source, and/or

(b) The household's income for the month of application is from a new source and not more than twenty-five

dollars will be received before the tenth calendar day after the date of application.

(2) The department shall calculate eligibility and benefit level for the month of application by:

(a) Using income the household receives between the first of the month and the date of application, and

(b) Disregarding income from a new source the household anticipates after the day of application.

(3) The department shall consider a household member changing jobs but continuing to work for the same employer to be receiving income from the same source.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-090, filed 12/31/87.]

WAC 388-49-100 Rights and responsibilities. The department shall advise the household of the following:

(1) The right to:

(a) Receive an application upon request;

(b) File an application the day of receipt;

(c) If eligible, receive food stamps within thirty days after the application is filed;

(d) If eligible, receive expedited services;

(e) Have a fair hearing;

(f) Have information remain confidential; and

(g) Be treated without discrimination because of age, handicap, color, sex, religion, race, national origin, or political beliefs.

(2) The responsibility to:

(a) Report certain changes, and

(b) Submit a food stamp monthly report each month if applicable.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-100, filed 12/31/87.]

WAC 388-49-110 Verification. (1) Sources of verification shall be:

(a) Documentary evidence,

(b) Collateral contacts, and

(c) Scheduled home visits.

(2) The household has primary responsibility for providing documentary evidence. The department shall offer to assist in obtaining documentary evidence if it would be difficult or impossible for the household to obtain in a timely manner.

(3) At initial application, the department shall verify:

(a) Identity of:

(i) The person making the application, or

(ii) The authorized representative.

(b) Residency,

(c) Resources,

(d) Loans,

(e) Gross nonexempt income,

(f) Shelter expenses if the expense could result in a deduction,

(g) Utility expenses,

(h) Medical care expenses,

(i) Dependent care expenses,

(j) Household size,

(k) Household composition, and

(l) Disability.

(4) At recertification, the department shall verify a change in income, medical expenses, or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than twenty-five dollars since the verification was completed.

(5) The department shall verify for monthly reporting households the following factors on a monthly basis:

- (a) Gross nonexempt income;
 - (b) Utility expenses unless the standard utility allowance is used;
 - (c) Medical expenses per WAC 388-49-500(4);
 - (d) Alien status, Social Security number, residency, and citizenship if changed;
 - (e) All other questionable information.
- (6) The department shall verify questionable information.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-110, filed 12/31/87.]

WAC 388-49-120 Application disposition. (1) The department shall provide a household with an opportunity to participate no later than thirty days following the date the application was filed.

(2) The department shall send a written notice of approval, denial, or pending status to all applicants as soon as a determination is made, but not later than thirty days after the date of application. The thirty-day period ends on the last working day prior to the thirtieth day when the thirtieth day falls on a weekend or a holiday.

(3) The department shall delay the written notice until the thirtieth day when the household has been denied food stamps with an eligibility decision pending for AFDC or SSI.

(4) The household may voluntarily withdraw the application any time prior to the determination of eligibility.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-120, filed 12/31/87.]

WAC 388-49-150 Delayed and pended applications.

(1) When the department does not determine eligibility or provide benefits within thirty days after the date of application, the department shall determine if the delay is the fault of the household or the department.

(2) When the delay is the fault of the household, the household shall:

- (a) Lose benefits for the month of application,
- (b) Have an additional thirty days to take the required action, and
- (c) Be denied and be required to file a new application when the application process is not complete by the end of the second thirty-day period.

(3) When the delay is the fault of the department, the department shall take immediate corrective action:

- (a) If the case file is complete, the department shall process the application.
- (b) If the case file is incomplete, the department shall pend the application.
- (c) If the case is incomplete after sixty days from the date of application, the department shall deny the application.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-150, filed 12/31/87.]

WAC 388-49-160 Certification periods. The department shall certify households:

- (1) Receiving assistance to coincide with the assistance review or to the end of the assistance period whichever is earlier;
- (2) Consisting of migrants up to three months;
- (3) Without earned income in which all members are elderly or disabled for up to twelve months;
- (4) With little likelihood of change for six months;
- (5) Reporting monthly for six months;
- (6) Consisting of an individual with a minor child living with the individual's parent or sibling and purchasing and preparing food separately per WAC 388-49-190 (1)(e) up to six months; and
- (7) All other households for up to three months.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-160, filed 12/31/87.]

WAC 388-49-170 Recertification. (1) The department shall provide a notice of expiration to all eligible households:

(a) Not earlier than fifteen days prior to, and not later than, the first day of the household's last month of certification for a multi-month period; or

(b) At the time of certification if the household is certified for up to two months.

(2) A household provided a notice of expiration re-applies timely when the department receives the application by:

(a) The fifteenth day of the last month of certification, or

(b) The fifteenth day after the notice is received if the notice is provided at the time of certification.

(3) The department shall approve or deny households reapplying and completing the application process and shall notify the household of approval or denial:

- (a) By the end of the current certification period, or
- (b) Not later than thirty days after the last allotment when certified for one month.

(4) A household shall lose its right to uninterrupted benefits when it fails to:

- (a) Submit a timely reapplication, or
- (b) Appear for a face-to-face interview without good cause.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-170, filed 12/31/87.]

WAC 388-49-180 Categorical eligibility. (1) The department shall determine households categorically eligible for food stamps when all household members are authorized to receive AFDC and/or SSI benefits.

(2) The department shall exempt a categorically eligible household from the following food stamp eligibility requirements:

- (a) Resources,
- (b) Gross and net income standards,
- (c) Social Security number requirement,
- (d) Sponsored alien requirement, and
- (e) Residency requirement.

(3) A household shall not be categorically eligible when:

- (a) An entire household is institutionalized, or
- (b) Any household member is disqualified from the food stamp program for any reason.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-180, filed 12/31/87.]

WAC 388-49-190 Household concept. (1) The department shall consider the following as households:

- (a) A person who lives alone;
- (b) A person who lives with others and who purchases and prepares meals separate and apart from the others;
- (c) A group of persons who live together and purchase and prepare meals together;
- (d) A permanently disabled and elderly person unable to prepare meals.
 - (i) The person must be living with others.
 - (ii) The person's spouse shall be included in the household.
 - (iii) The income of the other household members, except the spouse, cannot exceed one hundred sixty-five percent of the poverty level.
- (e) A person who is the parent of a child under 18 years of age, along with that person's child and spouse, if the person and the person's child are:

- (i) Residing with the person's parent or sibling, and
- (ii) Purchasing and preparing meals separate from the parent or sibling.

(f) A person who is a parent or sibling living with the person described in WAC 388-49-190 (1)(e) or (h);

(g) A person living with his or her natural, adoptive, or stepchildren, or such children living with parents when one parent is:

- (i) Elderly or disabled, and
- (ii) Purchasing and preparing meals separate from the child.
- (h) A person, living with a sibling, who is:
 - (i) Elderly or disabled, and
 - (ii) Purchasing and preparing meals separately.

(2) The department shall not grant separate household status to:

- (a) Children under eighteen years of age under parental control of a member of the household;
- (b) Parents living with their natural, adoptive, or stepchildren, or such children living with parents unless they qualify as separate households per WAC 388-49-190 (1)(e), (f), or (g);
- (c) A spouse of a household member;
- (d) Siblings unless they qualify as separate households per WAC 388-49-190 (1)(e), (f), or (h);
- (e) A boarder.

(3) The department shall consider the following persons residing with the household as nonhousehold members who, if otherwise eligible, may qualify as a separate household:

- (a) Roomers,
- (b) Live-in attendants, or
- (c) Persons sharing living quarters with the household who purchase food and prepare meals separately from the household.

(4) The department shall consider the following persons residing with the household as ineligible household members:

- (a) Persons disqualified for intentional program violation;
- (b) Persons disqualified because of noncompliance with work registration requirements;
- (c) Persons who are ineligible aliens;
- (d) Persons disqualified for failure to apply for or provide a Social Security number; or
- (e) Persons who are ineligible students.

[Statutory Authority: RCW 74.04.050. 88-16-081 (Order 2662), § 388-49-190, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-190, filed 12/31/87.]

WAC 388-49-191 Household composition--Family independence program. (1) The department shall consider the following as separate households:

- (a) Individuals receiving family independence program (FIP) benefits; and
- (b) Persons, not receiving FIP benefits, living with individuals receiving FIP benefits.

(2) Persons, not receiving FIP benefits, living with individuals receiving FIP benefits shall be subject to chapter 388-49 WAC.

[Statutory Authority: Chapter 74.21 RCW. 88-18-025 (Order 2684), § 388-49-191, filed 8/30/88.]

WAC 388-49-200 Residents of institutions. Residents of institutions are not eligible for participation in the food stamp program unless they are:

- (1) Residents of federally subsidized housing for the elderly built under section 202 of the Housing Act of 1959 or section 236 of the National Housing Act,
- (2) Residents in a drug or alcohol treatment and rehabilitation program,
- (3) Residents of group living arrangements who are blind or disabled and receiving benefits under Title II or Title XVI of the Social Security Act,
- (4) Women and children residing in a shelter for battered women and children, or
- (5) Residents of public or private nonprofit shelters for homeless persons.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-200, filed 12/31/87.]

WAC 388-49-210 Alcohol and drug treatment centers. (1) Persons participating in a drug or alcohol treatment program on a resident basis may apply for food stamps provided the treatment program is administered by a public or private nonprofit organization certified by a state agency.

(2) The department shall determine the person's eligibility:

- (a) As a one-person household, and
- (b) Through an authorized representative who is an employee of and designated by the treatment center.
- (3) The authorized representative shall:
 - (a) Be aware of the person's circumstances;
 - (b) Receive and use the food coupon allotment for meals served to the resident; and

(c) Notify the department of changes in income, resources, or circumstances within ten days of the change.

(4) The treatment facility shall:

(a) Be responsible for any misrepresentation or intentional program violation,

(b) Assume total liability for food coupons held on behalf of resident, and

(c) Send a monthly list of participating residents signed by a center official to the CSO.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-210, filed 12/31/87.]

WAC 388-49-220 Group living arrangements. (1) A resident of a group living arrangement may apply for food stamps provided:

(a) The resident is receiving benefits from Social Security or supplemental security income, and

(b) The group living arrangement is administered by a nonprofit organization certified by a state agency.

(2) A resident may apply:

(a) Through an authorized representative of the group home and be certified as a one-person household, or

(b) On his or her own behalf and be certified according to the number of people in the person's household.

(3) An authorized representative shall:

(a) Be aware of the resident's circumstances;

(b) Receive and use the food coupon allotment for meals served to the resident; and

(c) Notify the department of changes in income, resources, or circumstances within ten days of the change.

(4) When the treatment facility acts as the authorized representative, the facility shall:

(a) Be responsible for any misrepresentation or intentional program violation,

(b) Assume total liability for food coupons held on behalf of the resident, and

(c) Send a monthly list of participating residents signed by an official to the CSO.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-220, filed 12/31/87.]

WAC 388-49-230 Shelters for battered women and children. (1) The department shall allow residents of a shelter for battered women and children to participate in the food stamp program.

(2) The department shall:

(a) Certify as a separate household a shelter resident who left a food stamp household containing a person abusing the resident;

(b) Provide an additional allotment as a separate household only once a month;

(c) Certify shelter residents on the basis of income, resources, and the expenses for which they are responsible; and

(d) Certify without regard to income, resources, and expenses of the former household.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-230, filed 12/31/87.]

WAC 388-49-240 Meals for the homeless. Homeless food stamp recipients may use food stamps to purchase prepared meals from authorized homeless meal providers.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-240, filed 12/31/87.]

WAC 388-49-250 Boarders. (1) The department defines a boarder as an individual, except a person described in WAC 388-49-190 (2)(a), (b), (c), or (d), who is:

(a) Residing with the household; and

(b) Paying reasonable compensation to the household for lodging and meals.

(2) The department shall not grant separate household status to boarders.

(3) The department shall consider a person paying less than reasonable compensation to be a member of the household that provides meals and lodging.

(4) The department shall include, at the household's request, any boarder paying reasonable compensation.

(5) Residents of a commercial boarding home are not eligible for food stamps.

[Statutory Authority: RCW 74.04.050. 88-16-083 (Order 2664), § 388-49-250, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-250, filed 12/31/87.]

WAC 388-49-260 Nonhousehold and ineligible household members. (1) For nonhousehold members, the department shall:

(a) Consider separate household eligibility for those persons defined in WAC 388-49-190(3);

(b) Not consider nonhousehold members when determining:

(i) Household size,

(ii) Income eligibility, or

(iii) Benefit level; and

(c) Consider the income and resources of nonhousehold members available to the household per WAC 388-49-410 and 388-49-485.

(2) For ineligible household members, the department shall:

(a) Not authorize food stamps for those persons defined in WAC 388-49-190(4);

(b) Not consider ineligible household members when determining income eligibility or benefit levels of the household; and

(c) Consider the income and resources of ineligible household members per WAC 388-49-410, 388-49-420, and 388-49-480.

[Statutory Authority: RCW 74.04.050. 88-16-081 (Order 2662), § 388-49-260, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-260, filed 12/31/87.]

WAC 388-49-270 Sponsored aliens. (1) The sponsored alien as defined in WAC 388-49-020 and spouse are responsible for providing information necessary to determine income and resources of the sponsor and spouse for three years from the alien's date of entry or admission as a lawful, permanent resident.

(2) The department shall recalculate income and resources when the alien switches sponsors during a certification period.

(3) The department shall verify:

(a) The income and resources of the sponsor and spouse;

(b) The number of aliens the sponsor agreed to support;

(c) The provision of the Immigration and Nationality Act under which the alien is admitted;

(d) The alien's date of entry as a lawful, permanent resident;

(e) The alien's date and place of birth and alien registration number;

(f) The number of dependents for federal income tax of the sponsor and spouse; and

(g) The name, address, and telephone number of the alien sponsor.

(4) If verification is not received on a timely basis, the sponsored alien and spouse shall be considered excluded household members.

(5) The provisions of this section do not apply to:

(a) An alien participating in the food stamp program as a member of the sponsor's household;

(b) An alien sponsored by an organization; or

(c) An alien not required to have a sponsor under Immigration and Nationality Act.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-270, filed 12/31/87.]

WAC 388-49-280 Communal dining and delivered meals. Elderly or disabled household members and spouses may use food coupons to purchase meals:

(1) Prepared at a communal dining facility authorized by FNS, or

(2) From a nonprofit meal delivery service authorized by FNS.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-280, filed 12/31/87.]

WAC 388-49-290 Identity. The household shall provide verification of the identity of:

(1) Person making application, or

(2) Authorized representative and head of household when an authorized representative applies on behalf of a household.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-290, filed 12/31/87.]

WAC 388-49-300 Residency. (1) Categorically eligible households, as described in WAC 388-49-180, do not have to meet residency requirements of this section.

(2) Household members shall live in the project area where the application is filed.

(3) The household shall provide verification of residency except in unusual cases where verification cannot reasonably be accomplished.

(4) The department shall not consider persons to be residents if they are in a project area solely for vacation purposes.

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(5) No person may participate as a member of more than one household, or in more than one project area in any month unless that person is:

(a) A resident of a shelter for battered women and children, and

(b) Was a member of a household containing the person abusing him or her.

(6) The department shall not require a person to:

(a) Have a fixed residence, or

(b) Intend to reside permanently in the state.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-300, filed 12/31/87.]

WAC 388-49-310 Citizenship and alien status. (1) Except for subsection (2) of this section, persons participating in the food stamp program shall be residents of the United States and either:

(a) A United States citizen; or

(b) An alien lawfully admitted for permanent residence; or

(c) An alien who:

(i) Entered the United States prior to January 1, 1972, or some later date as required by law; and

(ii) Has continuously maintained residency in the United States since then; and

(iii) 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:

(i) 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

(ii) 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;

(i) An alien having temporary resident status as a special agricultural worker under section 210 of the Immigration and Nationality Act.

(2) Aliens legalized under section 245A of the Immigration and Nationality Act are ineligible for five years after attaining temporary resident status except for those who:

- (a) Attain permanent resident status, and
- (b) Receive Supplemental Security Income.
- (3) The household shall provide verification when:
 - (a) Citizenship is questionable, or
 - (b) One or more of its members are aliens.
- (i) The department shall not contact the immigration and naturalization service to obtain information without the alien's written consent.
- (ii) The department shall give the household failing to provide verification the option of:
 - (A) Withdrawing the application, or
 - (B) Participating without the alien member.
- (4) An applicant shall be ineligible until:
 - (a) Questionable citizenship is verified, or
 - (b) Lawful alien status is verified.
- (5) The department shall accept a statement under a penalty of perjury signed by a United States citizen that the applicant is a United States citizen when:
 - (a) The applicant cannot produce acceptable citizenship verification; and
 - (b) The household can reasonably explain why the verification is not available.
- (6) The department shall notify immigration and naturalization services when any household member is ineligible because that person is present in the United States in violation of the Immigration and Nationality Act.
- (7) Lawfully admitted aliens who are ineligible include:
 - (a) Alien visitors,
 - (b) Tourists,
 - (c) Diplomats, or
 - (d) Students with temporary status.

[Statutory Authority: RCW 74.04.050. 88-16-085 (Order 2666), § 388-49-310, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-310, filed 12/31/87.]

WAC 388-49-320 Social Security number. (1) Categorically eligible households, as defined in WAC 388-49-180, are not subject to the provisions of this section.

(2) Prior to certification, a person applying for or participating in the food stamp program shall:

- (a) Provide his or her Social Security number or numbers (SSN), or
- (b) Apply for and provide verification of SSN application if number is unknown or has not been issued.
- (3) The department shall inform households:
 - (a) Where to apply for an SSN,
 - (b) What information is needed, and
 - (c) Failure to apply for or provide an SSN shall result in the disqualification of the person for whom the SSN is not obtained.

(4) The department shall disqualify any person failing to provide or apply for an SSN. The disqualification shall continue until the person provides a SSN.

(5) The department shall allow the person to participate for one month in addition to the month of application if a household member can show good cause why a SSN application has not been completed in a timely manner. Good cause shall exist when:

- (a) Documentary evidence or collateral information verifies the person has applied for an SSN; or

- (b) The person has made every effort to supply Social Security Administration with necessary information; and
- (c) Good cause does not include delays due to illness, lack of transportation, or temporary absence.

(6) The department shall make every effort to assist the household member to obtain documents necessary for SSN application.

(7) The department shall determine good cause for failure to apply monthly to allow persons to continue on the food stamp program.

(8) Disqualified persons may become eligible when they provide their SSN.

(9) The department shall not delay certification of an eligible household for verification of an SSN.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-320, filed 12/31/87.]

WAC 388-49-330 Student. (1) A student, as defined in WAC 388-49-020, 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's minimum of twenty hours per week 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 at least six years of age, but under twelve years of age, and the CSO has determined adequate child care is not available;

(e) Receive benefits from the aid to families with dependent children program; or

(f) Attend an institution of higher education through a program under Job Training Partnership Act (JTPA).

(2) Student status begins the first day of the school term.

(3) Student status continues through normal periods of class attendance, vacation, and recess.

(4) 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 74.04.050. 88-02-031 (Order 2575), § 388-49-330, filed 12/31/87.]

WAC 388-49-340 Cooperation with quality control review. (1) A household shall be ineligible if it refuses to cooperate in a quality control review.

(2) The household shall remain ineligible until the earlier of the following:

(a) Quality control review requirements are met, or

(b) Ninety-five days from the end of the annual quality control review period.

(3) Households reapplying after ninety-five days from the end of the annual quality control review period shall provide verification of all eligibility requirements:

(a) Prior to certification if not an expedited services household, or

(b) Prior to receiving second month's benefits if eligible for expedited services.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-340, filed 12/31/87.]

WAC 388-49-350 Food distribution program. (1) The food distribution program is available to households living:

(a) On Indian reservations, or

(b) Near the reservation of a tribe where they are members.

(2) The program is administered by Indian tribal organizations approved by FNS.

(3) A household shall not receive benefits under the food stamp program and the food distribution program during the same calendar month.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-350, filed 12/31/87.]

WAC 388-49-360 Work registration and employment and training program services. (1) Unless otherwise exempt, each individual between the ages of eighteen and sixty shall 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) Sixteen or seventeen-year-old heads of households shall register for employment unless the individual is:

(a) Attending school, or

(b) Enrolled in an employment and training program at least half time.

(3) Persons exempt from work registration shall include:

(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 a child's sixth birthday falls 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 (UC);

(d) A household member subject to and participating in any work program under Titles IV-A and IV-C of the Social Security Act, as amended, 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 388-49-020;

(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; and

(i) A migrant or seasonal farmworker under contract or similar agreement with an employer to begin employment within thirty days.

(4) The department shall provide work registration forms to the applicant for each household member required to register. Household members are registered when they submit a completed work registration form to the department.

(5) The department shall accept an applicant's statement concerning the employability of each member of the household unless the information is questionable. The department shall verify any claim for exemption it determines questionable.

(6) The department shall:

(a) Refer persons required to register for work to employment and training program services, unless the person is exempted by subsection (7) of this section; and

(b) Provide employment and training program services to assigned applicants or recipients who are not otherwise exempt, either directly or through a contracted service provider, as specified in the state plan. Persons subject to employment and training services shall participate in an employment and training program service for a minimum level of effort comparable to spending approximately 12 hours a month for two months during:

(i) An eight-week or two four-week period or periods, each time they are entered into the food stamp program; or

(ii) Each 12 months of continuous participation, whichever occurs sooner.

(7) Applicants or recipients required to register for work, but exempt from referral for employment and training program services, shall include those:

(a) Residing in an exempt county as specified in the state plan;

(b) Residing more than one hour's travel from the service provider;

(c) Having no mailing address or message telephone;

(d) Having a temporary incapacity expected to have a duration of at least 60 days; and

(e) In their first or second trimester of pregnancy.

(8) Persons subject to employment and training shall also be required to:

(a) Report at a prescheduled time to the department or service provider for an initial assessment interview. The department or service provider shall provide written information regarding at least the following in the assessment interview:

(i) A written employment and training plan developed jointly between the department, or service provider and the participant;

(ii) The grounds for noncompliance;

(iii) The sanctions for noncompliance without good cause; and

(iv) Provisions for ending noncompliance.

(b) Respond to a request from the department or service provider requiring supplemental information regarding employment status or availability for work;

(c) Report to an employer, if the potential employment is suitable, when referred by the department or service provider;

(d) Accept a bona fide offer of suitable employment;

(e) Report at a prescheduled time to the department or service provider on the results of all employment and training services participated in; and

(f) Comply with the department or service provider's requests for follow-up interviews.

(9) The department shall provide an allowance of twenty-five dollars per participant month for costs of transportation or other costs that are reasonably necessary and directly related to participation in the employment and training program.

(10) If a household member fails to comply with work registration or employment and training program requirements without good cause, the department shall:

(a) Disqualify the entire household if the noncompliant member is the head of household, or

(b) Disqualify the noncompliant person if the noncompliant member is other than the head of household. The department shall treat the disqualified member as an ineligible household member.

(11) The disqualification for noncompliance with work registration or employment and training program service requirements shall be for two months or until the noncompliant member moves from the household, becomes exempt, or complies, whichever is earlier.

(a) If the noncompliant member moves from the household, and joins another household, the entire new household is ineligible for the remainder of the disqualification if the noncompliant member joins as head of the household.

(b) If the noncompliant member is not the head of household in the new household, the department shall treat the noncompliant individual as an ineligible household member for the remainder of the disqualification.

(12) The department shall determine whether or not good cause existed prior to initiating sanction for refusal or failure to register for work or participate in employment and training program services.

(13) The following circumstances beyond the participant's control shall constitute good cause for failure to register for work, or participate in employment and training program services. These are not inclusive:

(a) Illness of the participant;

(b) Illness of another household member requiring the presence of the member;

(c) A household emergency;

(d) The unavailability of transportation; and

(e) Lack of adequate child care for children who have reached six years of age, but are under 12 years of age.

(14) The department shall treat a household member subject to work requirements of Titles IV-A or IV-C of the Social Security Act, as amended, or UC work registration and participation requirements, who fails to

comply with such requirements, shall be treated as though the member had failed to comply with the corresponding employment and training program service requirements. If a corresponding employment and training program service requirement does not exist, the household member shall lose their exemption status as referenced in subsection (3)(d) of this section and shall register for work.

(15) DSHS shall administer the program.

(16) Each household has a right to a fair hearing to appeal a denial, reduction, or termination of benefits due to:

(a) A determination of nonexempt status; or

(b) Failure to comply with work registration and employment and training program requirements; or

(c) Determination of noncompliance with a comparable work program under Titles IV-A and IV-C of the Social Security Act, as amended, or UC requirement.

(17) Within ten days of the department's determination of failure to comply, without good cause, the department shall provide the household with notice of adverse action that contains:

(a) The particular act of noncompliance;

(b) The proposed period of disqualification ;

(c) Notification that the individual or household may reapply at the end of the disqualification period; and

(d) Information describing the action which the individual or household may take to end or avoid the sanction.

(18) At the end of the two-month disqualification period, a household may apply to reestablish eligibility. The individual may reestablish eligibility during the disqualification period if the reason for disqualification is corrected.

(19) A registrant moving out of the jurisdiction of the department's local office with which the registrant is registered shall reregister at the department local office in the new location.

(20) Persons who are subject to reporting requirements and who lose exemption status due to any change of circumstance shall register for work. They shall complete the work registration report form and return it 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.

(21) Persons who are not subject to reporting requirements shall register for employment at the household's next recertification.

(22) 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 74.04.050, 88-02-031 (Order 2575), § 388-49-360, filed 12/31/87.]

WAC 388-49-380 Voluntary quit. (1) A household where the head of household voluntarily quit his or her most recent job without good cause shall be ineligible if:

(a) The employment involved twenty hours or more per week or provided weekly earnings equivalent to twenty times the minimum wage,

(b) The quit occurred within sixty days prior to application or any time thereafter,

(c) The quit was without good cause, and

(d) The head of household is required to register for work as provided in WAC 388-49-360.

(2) Good cause for voluntarily quitting employment includes the following:

(a) Circumstances included in WAC 388-49-370(10);

(b) The employment is unsuitable as defined in WAC 388-49-370(3);

(c) Discrimination by an employer based on age, race, sex, color, handicap, religious belief, national origin, or political belief;

(d) Work demands or conditions rendering continued employment unreasonable, such as working without being paid on schedule;

(e) Acceptance by the head of household 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 388-49-330, requiring the head of household to leave employment;

(f) 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 head of household to leave employment;

(g) Resignations by persons under the age of sixty recognized by the employer as retirement;

(h) Acceptance of a bona fide offer of employment of more than twenty hours a week or where the weekly earnings are equivalent to the federal minimum wage multiplied by twenty hours which, because of circumstances beyond the control of the head of household, 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

(i) 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.

(3) If a quit was without good cause, the department shall:

(a) Deny a household's application for a period of ninety days beginning with the day of quit; or

(b) For participating households, disqualify the household for three months. The disqualification shall start the first of the month following the adverse action period.

(4) If a noncompliant head of household leaves the household, the remaining household members shall no longer be sanctioned. If the head of household committing the violation joins another household as the head of household, the balance of the sanction shall be imposed on the new household.

(5) The household shall have primary responsibility for providing verification. If the household and the department are unable to obtain verification, the household shall not be denied access to the program.

(6) The household shall re-establish eligibility during the disqualification, if otherwise eligible, if the member who caused the disqualification:

(a) Secures new employment comparable in salary or hours to the job which was quit,

(b) Leaves the household, or

(c) Becomes exempt from work registration.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-380, filed 12/31/87.]

WAC 388-49-390 Strikers. (1) Households containing a striker as defined in WAC 388-49-020 shall be eligible if the household:

(a) Was eligible for benefits the day prior to the strike, and

(b) Is otherwise eligible at the time of application.

(2) A household shall not receive an increase in benefits as the result of a decrease in the income of the striker.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-390, filed 12/31/87.]

WAC 388-49-400 Resources--Allowable maximums. (1) Categorically eligible households, as defined in WAC 388-49-180, do not have to meet the resource limits or definitions in this section.

(2) Households not categorically eligible shall not exceed maximum allowable nonexempt resources of:

(a) Three thousand dollars for any household with a person sixty years of age or over, and

(b) Two thousand dollars for all other households.

(3) The department shall verify ownership and the value of all resources for households not categorically eligible.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-400, filed 12/31/87.]

WAC 388-49-410 Resources--Exempt. (1) The department shall exempt the following resources:

(a) An occupied home and surrounding property not separated by intervening property owned by others;

(b) An unoccupied home and surrounding property if:

(i) The household intends to return to the home; and

(ii) The house is unoccupied due to:

(A) Employment;

(B) Training for future employment;

(C) Illness; or

(D) Uninhabitability due to casualty or natural disaster.

(c) A piece of land where the household is building or intends to build a permanent home, if the household does not own another home. The land must not be separated by intervening property owned by others;

(d) Personal effects;

(e) Household goods;

(f) One burial plot per household member;

(g) Cash value of:

- (i) Life insurance policies; and
- (ii) Pension funds.
- (h) Vehicles as provided under WAC 388-49-430;
- (i) That portion of real or personal property directly related to the maintenance or use of a vehicle excluded under WAC 388-49-430 (1)(a), (b), and (f);
- (j) Property annually producing income consistent with its fair market value, even if only used on a seasonal basis;
- (k) Rental homes used by household for vacation purposes during the year if the property annually produces income consistent with its fair market value;
- (l) Property essential to the employment or self-employment of a household member;
- (m) Resources held separately by nonhousehold members, a person disqualified for noncompliance with work registration requirements, or an ineligible student;
- (n) Indian lands:
 - (i) Held jointly with the tribe; or
 - (ii) Sold only with the approval of the Bureau of Indian Affairs.
- (o) Resources prorated as income for self-employed persons or eligible students. These funds, if commingled in an account with nonexcluded funds, shall retain their exclusion for the period of time they are prorated as income;
- (p) Cash value of resources not accessible to the household;
- (q) Funds in a trust and the income produced by that trust, to the extent they are not available;
- (r) Resources excluded by express provision of federal law from consideration in the food stamp program;
- (s) Installment contracts or agreements for the sale of land or other property when it is producing income consistent with its fair market value;
- (t) Value of the property sold under an installment contract;
- (u) The value of property held for security if the purchase price is consistent with fair market value;
- (v) Real or personal property when:
 - (i) Secured by a lien as a result of obtaining a business loan; and
 - (ii) The security or lien agreement prohibits the household from selling the asset or assets.
- (w) Governmental payments designated for restoration of a home damaged in a disaster. The household must be subject to legal sanction if the funds are not used as intended;
- (x) Energy assistance payments or allowances made under federal, state, or local laws; and
- (y) Resources of persons residing in shelters for battered women and children if:
 - (i) The resources are jointly owned with members of the former household; and
 - (ii) Access to the resources depends on the agreement of the joint owner.
- (2) Exempt funds commingled in an account with nonexempt funds shall continue to be exempt for up to six months from the date they are commingled.

[Statutory Authority: RCW 74.04.050. 88-16-081 (Order 2662), § 388-49-410, filed 8/2/88. Statutory Authority: RCW 74.04.510. 88-

08-081 (Order 2619), § 388-49-410, filed 4/6/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-410, filed 12/31/87.]

WAC 388-49-420 Resources--Nonexempt. (1) The department shall consider the following resources nonexempt:

- (a) Liquid resources;
- (b) Real and personal property not exempted by WAC 388-49-410; and
- (c) Money secured in the form of a lump sum.
- (2) The value of a nonexempt resource, except for licensed vehicles as specified in WAC 388-49-430, shall be its equity value.
- (3) Exempt funds having been commingled in an account with nonexempt funds for more than six months.
- (4) The department shall consider resources owned jointly by separate households available in their entirety to each household, unless it can be verified the resource is inaccessible to one of the households.
- (5) The department shall consider resources of ineligible aliens and persons disqualified for failure to meet Social Security number requirements or intentional program violation as available to the remaining household members.
- (6) The department shall consider resources, reduced by one thousand five hundred dollars, of an alien sponsor and spouse, if living together, available to the alien household for three years following the alien's admission to the United States for permanent residence.

[Statutory Authority: RCW 74.04.050. 88-16-081 (Order 2662), § 388-49-420, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-420, filed 12/31/87.]

WAC 388-49-430 Resources--Vehicles. (1) The department shall exclude the entire value of a licensed vehicle if it is:

- (a) Used for income-producing purposes over fifty percent of the time it is in use;
- (b) Annually producing income consistent with its fair market value;
- (c) Essential to the employment of a household member, ineligible aliens, or disqualified persons whose resources are considered available to the household. This exclusion applies only if the vehicle is necessary for long distance travel other than daily commuting;
- (d) Necessary for subsistence hunting or fishing;
- (e) Used as the household's home; or
- (f) Necessary to transport a physically disabled household member, ineligible aliens, or disqualified persons whose resources are available to the household. The exclusion is limited to one vehicle per physically disabled person.
- (2) The department shall exclude the entire value of unlicensed vehicles:
 - (a) Driven by Indian tribal members on those reservations not requiring vehicle licensing, and
 - (b) Meeting one of the provisions in subsection (1) of this section.
- (3) The department shall continue the exclusions described in subsection (1) and (2) of this section when the

vehicle is not in use because of temporary unemployment.

(4) The department shall:

(a) Determine the fair market value of all licensed vehicles not excluded in subsections (1) and (2) of this section. Fair market value will be determined by the value of those vehicles as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies; and

(b) Count the fair market value of each vehicle in excess of four thousand five hundred dollars toward the household's resource maximum.

(5) The department shall determine the equity value of all licensed vehicles except:

(a) Those excluded in subsections (1) and (2) of this section,

(b) One licensed vehicle per household regardless of the use of the vehicle, and

(c) Any other licensed vehicle used for:

(i) Transportation to and from employment,

(ii) Seeking employment, or

(iii) Transportation for training or education which is preparatory to employment.

(6) The department shall count the equity value of licensed and unlicensed vehicles not excluded in subsections (1), (2), and (4) of this section toward the household's maximum allowable resource limit.

(7) The department shall consider only the greater amount as a resource if the vehicle has:

(a) A countable fair market value in excess of four thousand five hundred dollars, and

(b) A countable equity value.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-430, filed 12/31/87.]

WAC 388-49-440 Resources--Transfer of property.

(1) The department shall disqualify a household when any household member, including ineligible aliens or disqualified persons, has knowingly transferred any resource to qualify or attempt to qualify for benefits:

(a) Within three months immediately preceding the application for benefits, or

(b) After the household is determined eligible for benefits.

(2) The department shall disqualify the household for up to one year from the date the transfer is discovered.

(3) The department shall base the length of disqualification on the amount of the nonexempt transferred resources and other countable resources in excess of the allowable resource limits:

Amount In Excess	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	1 year

(4) The department shall not apply the disqualification to the following types of transfers:

(a) Resources not affecting eligibility,

(b) Resources sold or traded at or near fair market value,

(c) Resources transferred between household members and ineligible aliens or disqualified persons of the same household, or

(d) Resources transferred for reasons other than to qualify.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-440, filed 12/31/87.]

WAC 388-49-450 Income--Earned. (1) The department shall consider the following as earned income:

(a) Wages and salaries;

(b) Gross income from self-employment, including total gain from the sale of any capital goods or equipment related to the business, and excluding the cost of doing business. Self-employment income includes:

(i) Income from rental property if a household member is managing the property an average of twenty hours or more a week, and

(ii) Payments from a roomer or boarder.

(c) Training allowances from vocational and rehabilitative programs:

(i) Recognized by federal, state, or local governments; and

(ii) Are not a reimbursement.

(d) Payments under Title I of the Domestic Volunteer Service Act;

(e) Advance on wages;

(f) Earnings by persons over nineteen years of age from on-the-job training programs under JTPA;

(g) State and federal work study funds;

(h) EIC received regularly;

(i) Money from the sale of blood or blood plasma; and

(j) Military basic allowance for quarters and basic allowance for subsistence in lieu of provided housing and/or food.

(2) The department shall verify gross nonexempt earned income except for expedited service households:

(a) Prior to initial certification,

(b) At reapplication if amount has changed more than twenty-five dollars, and

(c) On a monthly basis for households subject to monthly reporting.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-450, filed 12/31/87.]

WAC 388-49-460 Income--Unearned. (1) The department shall consider unearned income to include, but not be limited to:

(a) An annuity, pension, or retirement;

(b) Veteran or disability benefits;

(c) Workmen or unemployment compensation;

(d) Old-age, survivors, or social security benefits;

(e) Strike benefits;

(f) Payment from federally aided assistance programs based on need;

(g) Support and alimony payments made directly to the household from a person living outside the household;

- (h) Child support refund payments received by AFDC recipients from office of support enforcement;
- (i) Payment on behalf of a foster child or adult;
- (j) Educational benefits less excluded amounts (see income exclusions in WAC 388-49-470):
 - (i) Scholarships,
 - (ii) Educational grants including loans where repayment is deferred,
 - (iii) Fellowships, and
 - (iv) Veteran benefits.
- (k) Payments from government-sponsored programs;
- (l) Cash prizes, awards, lottery winnings, or gifts;
- (m) Dividends, interest, or royalties;
- (n) Gross income minus the cost of doing business from rental property if a household member is not managing the property at least twenty hours a week;
- (o) Money withheld from public assistance to recoup an overpayment for intentional failure to comply with the public assistance program requirements;
- (p) Direct money payments, such as interest, dividends, and royalties which are a gain or benefit;
- (q) Money legally obligated and otherwise payable to the household, but diverted by the provider of the payment to a third party, for a household expense; and
- (r) The deemed income from an alien's sponsor.

(2) The department shall disregard the following as unearned income:

- (a) Money from any source voluntarily returned by a household member to repay a prior overpayment from the same source,
- (b) Mandatory deductions from a source to repay a prior overpayment from the same source except from:
 - (i) AFDC,
 - (ii) Refugee assistance,
 - (iii) GA-U, and
 - (iv) GA-S.
- (c) Child support payments assigned to office of support enforcement received by AFDC recipients.

(3) The department shall verify gross nonexempt unearned income except for expedited service households:

- (a) Prior to initial certification,
- (b) At recertification if amount has changed more than twenty-five dollars, and
- (c) On a monthly basis for households subject to monthly reporting if the income has changed.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-460, filed 12/31/87.]

WAC 388-49-470 Income--Exclusions. (1) The department shall exclude the following income:

- (a) Money withheld from an assistance payment, earned income, or other income source used to repay a prior overpayment from that same income source;
- (b) Any income specifically excluded by any other federal statute from consideration as income in the food stamp program;
- (c) The earned income of children who are:
 - (i) Members of the household,
 - (ii) Under eighteen years of age, and

- (iii) Attending school at least half time.
- (d) Infrequent or irregular income received during a three-month period that:
 - (i) Cannot be reasonably anticipated as available, and
 - (ii) Shall not exceed thirty dollars for all household members.
- (e) Loans, including those from private individuals and commercial institutions, other than educational loans where repayment is deferred;
- (f) Nonrecurring lump sum payments;
- (g) The cost of producing self-employment income;
- (h) Financial aid received under Title IV of the Higher Education Act designated by the school for:
 - (i) Tuition,
 - (ii) Fees (including equipment and material),
 - (iii) Books,
 - (iv) Supplies,
 - (v) Transportation, and
 - (vi) Miscellaneous personal expenses as determined by the institution.
- (i) Other federal financial aid designated by the school for:
 - (i) Tuition, and
 - (ii) Mandatory fees.
- (j) Nonfederal financial aid designated by the school for:

- (i) Tuition and mandatory fees at any school beyond high school or a school at any level for the physically or mentally handicapped; and
- (ii) Other earmarked educational expenses such as transportation, supplies, textbooks, and child care.
- (k) Reimbursements for past or future expenses to the extent the reimbursements do not:
 - (i) Exceed the actual expense, and
 - (ii) Represent a gain or benefit to the household.
- (l) Any gain or benefit not in money;
- (m) Vendor payments as defined in WAC 388-49-020;

(n) Money received and used for the care and maintenance of a third-party beneficiary who is not a household member;

(o) Supplemental payments or allowances made under federal, state, or local laws for the purpose of offsetting increased energy costs;

(p) Energy allowances included in AFDC, continuing general assistance, and refugee assistance grants.

Number in Grant Assistance Unit	Energy Exclusion
1	\$30
2	39
3	46
4	56
5	63
6	72
7	84
8 or more	92

(q) Money specified by court order or other legally binding agreement to go directly to a third-party beneficiary rather than to the household;

(r) Support payments not required by a court order or other legally binding agreement paid directly to a third party rather than to the household;

(s) Payments from the individual and family grant program;

(t) Public assistance payments when they are:

(i) Over and above the regular warrant amount; and

(ii) Not normally a part of the regular warrant; and

(iii) Paid directly to a third party on behalf of the household.

(u) Earnings from on-the-job training programs under the Job Training Partnership Act by household members:

(i) Under 19 years of age; and

(ii) Under parental control.

(v) Cash donations based upon need:

(i) Received directly by the household;

(ii) From one or more private, nonprofit, charitable organizations; and

(iii) Not exceeding three hundred dollars in any federal fiscal year quarter.

(2) When a child's earnings or amount of work performed cannot be differentiated from the earnings or work performed by other household members, the department shall:

(a) Prorate the earnings equally among the working members, and

(b) Exclude the child's pro rata share.

(3) When the intended beneficiaries of a single payment for care and maintenance of a third-party beneficiary include both household members and persons not in the household, the excluded amount shall be:

(a) Any identifiable portion intended and used for the care and maintenance of the person out of the household, or

(b) If the portions are not readily identified as:

(i) An even pro rata share; or

(ii) The amount actually used for the care and maintenance of the person out of the household, whichever is less.

[Statutory Authority: RCW 74.04.510. 88-21-096 (Order 2716), § 388-49-470, filed 10/19/88; 88-08-079 (Order 2617), § 388-49-470, filed 4/6/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-470, filed 12/31/87.]

WAC 388-49-480 Income--Ineligible household members. (1) The department shall determine eligibility and benefit level for households containing a person disqualified for intentional program violation as follows:

(a) The entire income of the disqualified person shall be considered available to the remaining household members; and

(b) The entire household's allowable earned income, standard deduction, medical, dependent care, and excess shelter deduction shall be considered in their entirety; and

(c) The household's coupon allotment shall not be increased as a result of the exclusion of one or more persons.

(2) The department shall determine eligibility and benefit level for households containing a person ineligible because of alien status or disqualification for refusal to obtain or provide a Social Security number as follows:

(a) A pro rata share of the income of the ineligible person shall be counted as income to the remaining household members;

(b) The twenty percent earned income deduction shall apply to the ineligible person's earned income attributed to the household; and

(c) The portion of the household's allowable shelter and dependent care expense which is paid by or billed to the ineligible member shall be divided evenly among all members of the household, providing the ineligible member has income.

(3) An ineligible or disqualified person shall not be included when determining the household's size for purposes of:

(a) Assigning a benefit level; and

(b) Comparing the household's monthly income to the income eligibility standards.

(4) The department shall not consider the income of ineligible students or persons disqualified for failure to meet work registration requirements as available to the household with whom they reside.

[Statutory Authority: RCW 74.04.050. 88-16-081 (Order 2662), § 388-49-480, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-480, filed 12/31/87.]

WAC 388-49-485 Income--Nonhousehold members. (1) The department shall consider as income cash payments to the household from a nonhousehold member as defined in WAC 388-49-020.

(2) The department shall not consider the following as available to the household:

(a) The nonhousehold member's income; and

(b) Payments made by a nonhousehold member to a third party for the benefit of the household.

(3) When the nonhousehold member's earnings cannot be differentiated from the earnings of other household members, the department shall:

(a) Prorate the earnings equally among the working members; and

(b) Exclude the nonhousehold member's pro rata share.

(4) When the household shares deductible expenses with nonhousehold members, the department shall allow only the amount paid or contributed by the household as a deduction.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-485, filed 12/31/87.]

WAC 388-49-490 Income--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:

(1) The department shall consider portions of the gross income of a sponsor and sponsor's spouse (if living

with the sponsor) as unearned income of the sponsored alien. The income of an alien sponsor shall be deemed available for three years following the alien's admission for permanent residence to the United States.

(a) The total monthly earned and unearned income of the sponsor and sponsor's spouse, if living with the sponsor, less earned income deduction, and the amount of the gross income eligibility standard for a household size equal to the sponsor, the sponsor's spouse, and all dependents shall be deemed monthly income of the alien when the sponsored alien's household:

- (i) Applies for, or
- (ii) Is recertified for program participation.

(b) Actual money paid to the alien by the sponsor or sponsor's spouse in excess of the deemed amount shall be considered income to the alien.

(c) If the sponsored alien can demonstrate the sponsor is sponsoring other aliens, the income deemed available shall be divided by the number of sponsored aliens applying for, or participating in, the program.

(2) The department shall consider the amount deemed in determining the eligibility and benefit level of the alien's household.

(3) The department shall verify the income of the alien's sponsor and sponsor's spouse if living with the sponsor at the time of the alien's application or recertification for program participation.

(4) If an alien switches sponsors during the certification period, deemed income 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 department.

[Statutory Authority: RCW 74.04.050, 88-02-031 (Order 2575), § 388-49-490, filed 12/31/87.]

WAC 388-49-500 Income--Deductions. (1) The department shall allow the following deductions when computing net income:

(a) A standard deduction of one hundred six dollars per household per month.

(b) An earned income deduction of twenty percent of gross earned income except as provided in WAC 388-49-640(8) concerning intentional program violation overpayments.

(c) A dependent care deduction of the actual amount incurred not to exceed one hundred sixty dollars per dependent when the care is necessary for a household member to:

- (i) Seek, accept, or continue employment; or
- (ii) Attend training or education preparatory to employment.

(d) A deduction for nonreimbursable monthly medical expenses over thirty-five dollars incurred by a household member who is elderly or disabled.

(e) Shelter costs in excess of fifty percent of the household's income after deducting the standard, earned income, medical, and dependent care deductions. The shelter deduction shall not exceed one hundred seventy dollars.

(f) An excess shelter deduction for the monthly amount exceeding fifty percent of the household's

monthly income after all applicable deductions for households containing an elderly or disabled person.

(2) Shelter costs may include:

(a) Costs for a home not occupied because of employment, training away from the home, illness, or abandonment caused by casualty loss or natural disaster shall be allowed if:

- (i) The household intends to return to the home;
- (ii) The current occupants, if any, are not claiming shelter costs for food stamp purposes; and
- (iii) The home is not being leased or rented during the household's absence.

(b) Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster.

(c) The standard utility allowance when a household incurs any separate utility charges for heating or cooling costs. A household may incur a separate utility charge when it:

- (i) Has not yet received a billing for utilities; or
- (ii) Is billed monthly by the landlord for actual usage as determined through individual metering; or
- (iii) Shares residence and utility costs with other persons, in which case the deduction is for the household's prorated share of the standard allowance.

(d) Actual utility costs rather than the standard utility allowance if the household is:

- (i) Not entitled to the standard utility allowance, or
- (ii) Requesting use of actual utility bills. A monthly telephone standard shall be allowed for households incurring telephone expenses if the household is not entitled to claim the standard utility allowance.

(3) A household may switch between actual utility costs and the standard utility allowance:

- (a) At each recertification, and
- (b) One additional time during each twelve-month period following the initial certification action.

(4) The department shall verify:

(a) Continuing shelter costs, if allowing the costs could potentially result in a deduction. Verify on a one-time basis unless the household has:

- (i) Moved, or
- (ii) Reported an increase in costs affecting the amount of the deduction or the information is questionable.

(b) Utility expenses:

(i) If the household is entitled to the standard utility allowance. Verify on a one-time basis unless the household has moved, changed its utilities, or the information is questionable; or

(ii) On a one-time basis if the household wishes to claim actual utility expenses at initial certification, recertification, or on a monthly basis for households subject to monthly reporting.

(c) Dependent care costs including changes, except in prospective budgeting.

(d) Medical expenses and the reimbursement amounts resulting in a deduction:

(i) At recertification, if the amount has changed more than twenty-five dollars; and

(ii) On a monthly basis for a household subject to monthly reporting.

(5) If medical reimbursement cannot be verified, the department shall certify the household without allowing the deduction, except in prospective budgeting.

[Statutory Authority: RCW 74.04.510. 88-23-085 (Order 2726), § 388-49-500, filed 11/18/88; 88-08-078 (Order 2616), § 388-49-500, filed 4/6/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-500, filed 12/31/87.]

WAC 388-49-505 Utility allowances. (1) The department shall:

(a) Establish an annualized standard utility allowance for use in calculating shelter costs;

(b) Obtain FNS approval of the methodology used to establish the standard utility allowance;

(c) Establish a separate annualized telephone allowance;

(d) Obtain FNS approval of the methodology used to establish the telephone allowance.

(2) Effective October 1, 1988, the annual standard utility allowances by household size are:

Persons in Household	Annualized Utility Standards
1	119
2	127
3	134
4	143
5	151
6	156
7	162
8	169
9	177
10 or more	186

(3) Effective March 1, 1988, the monthly telephone standard is sixteen dollars.

[Statutory Authority: RCW 74.04.510. 88-23-085 (Order 2726), § 388-49-505, filed 11/18/88. Statutory Authority: RCW 74.04.050. 88-04-042 (Order 2593), § 388-49-505, filed 1/28/88.]

WAC 388-49-510 Income eligibility standards. (1) Categorically eligible households, as described in WAC 388-49-180, are not subject to the provisions of this section.

(2) The department shall determine eligibility on the basis of gross income and net food stamp income except for households containing an elderly or disabled member as provided in subsection (3) of this section.

(3) The department shall determine eligibility on the basis of net food stamp income for households containing an elderly or disabled member.

(4) The gross and net monthly maximum income standards as established by the department of agriculture are as follows:

Gross Monthly Income Standard

Household Size	Maximum Standard
1	\$ 626
2	838
3	1,050
4	1,263
5	1,475
6	1,687
7	1,900
8	2,112
9	2,325
10	2,538
Each additional person	+213

Net Monthly Income Standard

Household Size	Maximum Standard
1	\$ 481
2	645
3	808
4	971
5	1,135
6	1,298
7	1,461
8	1,625
9	1,789
10	1,953
Each additional person	+164

[Statutory Authority: RCW 74.04.510. 88-23-085 (Order 2726), § 388-49-510, filed 11/18/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-510, filed 12/31/87.]

WAC 388-49-515 Eligibility determinations. The department shall:

(1) Determine eligibility prospectively for each issuance month for all households;

(2) Budget income for eligible households prospectively or retrospectively according to WAC 388-49-520, 388-49-530, or 388-49-535 after eligibility has been determined for each month; and

(3) Provide appropriate notice to the household as described in WAC 388-49-600.

[Statutory Authority: RCW 74.04.050. 88-16-082 (Order 2663), § 388-49-515, filed 8/2/88.]

WAC 388-49-520 Prospective income budgeting.

(1) The department shall budget income prospectively for:

- (a) Migrant households; and
- (b) Households in which all adult members are elderly or disabled and have no earned income.

(2) The department shall budget the following income prospectively:

- (a) Monthly student financial aid, except for work study;
- (b) Public assistance; and
- (c) Income from a new household member for the first two months of participation when:

- (i) The household timely reports the new member; and
- (ii) The new member has not received benefits within the last calendar month.

(3) The department shall consider income exclusions and deductions prospectively when budgeting income prospectively.

[Statutory Authority: RCW 74.04.050, 88-16-082 (Order 2663), § 388-49-520, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-520, filed 12/31/87.]

WAC 388-49-530 Retrospective income budgeting. The department shall:

(1) Budget income retrospectively in months other than beginning months for:

- (a) All households except those described in WAC 388-49-520(1); and
- (b) Types of income described in WAC 388-49-520(2).

(2) Consider income exclusions and deductions retrospectively when budgeting income retrospectively.

(3) Use the household composition as of the last day of the budget month unless a member leaves or enters the household during the process month. See WAC 388-49-610 for rules when deleting or adding a member.

(4) Disregard income received in a beginning month if the income was:

- (a) From a source no longer providing income to the household; and
- (b) Included in the household's prospective budget.

(5) Disregard income received from a discontinued source by a nonassistance household member if that member:

- (a) Applies for and begins to receive a public assistance grant; and
- (b) Reported the discontinued income at least ten days prior to the start of the payment month.

[Statutory Authority: RCW 74.04.050, 88-16-082 (Order 2663), § 388-49-530, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-530, filed 12/31/87.]

WAC 388-49-535 Special circumstances--Income budgeting. The department shall:

(1) Budget additional public assistance payments either prospectively or retrospectively, using only the amount authorized for the month the income is received.

(2) Annualize and then prorate the following income to determine eligibility and benefit levels in the beginning months if:

- (a) Self-employment income is received other than monthly; and
- (b) Income received by contract is in less than one year.

(c) After the first beginning months, the department shall use actual income received in the corresponding budget month.

(3) When a participating household member establishes a new household;

- (a) Remove that member from the prior household; and
- (b) Use the method of income budgeting that was in effect in the prior household.

(4) Consider either prospectively or retrospectively over the period the expense is intended to cover, expenses that have been averaged if the household:

(a) Has expenses that fluctuate or are billed less often than monthly; and

(b) Chooses to have the expenses averaged.

(5) When adding or deleting a household member, add or delete that person's income, following change of circumstance rules in WAC 388-49-610.

(6) Consider income deductions retrospectively in households having income budgeted both prospectively and retrospectively.

[Statutory Authority: RCW 74.04.050, 88-16-082 (Order 2663), § 388-49-535, filed 8/2/88.]

WAC 388-49-550 Monthly allotments. (1) The department shall determine the value of the allotment a household receives.

(2) The monthly allotment shall equal the thrifty food plan (TFP) for the household size reduced by thirty percent of the household's net income. The department shall use the monthly allotment standards as established by the food and nutrition service.

<u>Household Size</u>	<u>Thrifty Food Plan</u>
1	90
2	165
3	236
4	300
5	356
6	427
7	472
8	540
9	608
10	676
Each additional member	+68

(3) The department shall issue to households a prorated coupon allotment for the number of days remaining from the date of application to the end of the initial month of eligibility.

(a) The allotment shall be based upon a thirty-day month.

(b) No allotment shall be issued for less than ten dollars.

(4) The department shall determine the value of the monthly allotment a household receives by:

(a) Multiplying the household's net monthly income by thirty percent,

(b) Rounding the product up to the next whole dollar if it ends with one through ninety-nine cents, and

(c) Subtracting the result from the thrifty food plan for the appropriate household size.

(5) One and two-person households shall receive a minimum monthly allotment of ten dollars except in the initial benefit month when no allotment shall be issued for less than ten dollars.

(6) The department shall issue an identification card to each certified household.

[Statutory Authority: RCW 74.04.510. 88-23-082 (Order 2728), § 388-49-550, filed 11/18/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-550, filed 12/31/87.]

WAC 388-49-560 Issuance. (1) The department shall issue food coupons through:

- (a) A food coupon authorization (FCA) system staggered through the tenth of the month, or
- (b) A direct coupon mail out system staggered through the tenth of the month.

(2) For FCAs issued after the twenty-fifth of the month, the department shall issue a valid FCA:

(a) Until the end of the month and issue a valid replacement FCA if the household is unable to transact the FCA before the expiration date, or

(b) For the current month benefits valid in the following month.

(3) The department shall maintain issuance records for a period of three years from the month of origin.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-560, filed 12/31/87.]

WAC 388-49-570 Replacement allotments. (1) A household may request a replacement not to exceed a one-month allotment for:

(a) A food coupon authorization (FCA) or coupons received, but subsequently destroyed by a household disaster;

(b) An FCA or coupons stolen or lost in the mail; or

(c) Food purchased with coupons and destroyed in a disaster.

(2) To request a replacement, the household shall:

(a) Report the destruction, theft, or nonreceipt within ten days of the incident or within the period of intended use, whichever is earlier; and

(b) Sign an affidavit attesting to the destruction, theft, or nonreceipt.

(3) The department shall not issue both a household disaster allotment to a household and a replacement allotment in a food and nutrition service (FNS) declared disaster.

(4) When a request for replacement is received, the department shall:

(a) Verify the disaster or theft;

(b) Determine if the coupons or FCA were validly issued, actually mailed, and if sufficient time has elapsed for delivery;

(c) Issue a replacement within ten days of the request;

(d) Deny a request for replacement if the household has been:

(i) Issued one replacement for an FCA or coupons destroyed after receipt or an FCA stolen after receipt within the previous five-month period; or

(ii) Issued two replacements for an FCA or coupons lost or stolen in the mail before receipt within the previous five-month period.

(e) Deny a request for replacement of 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; and

(f) Not issue a replacement if coupons or an FCA are lost or misplaced after receipt.

(5) The department shall deny or delay replacing an FCA when documentation substantiates the replacement request is fraudulent. The department shall:

(a) Inform the household of its right to a fair hearing, and

(b) Continue the denial or delay pending the hearing decision.

(6) The department shall use other delivery methods after more than one request is received for replacement of an original or replacement FCA or coupons lost in the mail within a six-month period.

(7) If delivery of a partial allotment is reported, the department shall:

(a) Verify the coupon loss was due to damage in the mail before delivery or a discrepancy in the issuance unit's inventory, and

(b) Issue the remainder of the allotment if the partial allotment is due to an error in the issuance unit regardless of the number of times the household has received replacements within a six-month period.

(8) The department shall provide replacement for coupons received and found to be mutilated or improperly manufactured.

(a) The replacement shall equal the value of the improperly manufactured or mutilated coupons.

(b) Coupons shall not be replaced if less than three-fifths of the mutilated coupons remain.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-570, filed 12/31/87.]

WAC 388-49-580 Restoration of lost benefits. (1) The department shall restore benefits whenever:

(a) A loss was caused by department error,

(b) An administrative disqualification for intentional program violation was reversed,

(c) A rule or instruction specifies restoration of lost benefits,

(d) A court action finding benefits were wrongfully withheld, or

(e) A household was categorically eligible on or after December 23, 1985.

(2) The department shall restore benefits even if the household is currently ineligible. Restore the benefits for not more than twelve months prior to whichever of the following occurred first:

(a) The month the department receives a restoration request,

(b) The month the department is notified or discovers a loss has occurred,

(c) The date the household initiated a fair hearing request when a request for restoration was not received, or

(d) The date court action was initiated when the household has taken no other action to obtain a restoration.

(3) The department shall notify the household of:

(a) Its entitlement,

(b) The amount of benefits to be restored,

(c) The method of restoration,

(d) The right to request a fair hearing within ninety days of the date the household is notified, and

(e) Any offsetting to be done.

(4) If the household disagrees with the amount of benefits being restored, the department shall issue the amount determined by the department. If a fair hearing decision overturns the department, the department shall restore any lost benefits.

(5) If household composition has changed, the department shall restore the lost benefits to:

(a) First, the household containing a majority of the persons who were household members at the time of the loss; or

(b) Second, the household containing the head of the household at the time of the loss.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-580, filed 12/31/87.]

WAC 388-49-590 Monthly reporting. (1) The department shall require the following households to return a completed monthly report by the fifth day of the process month describing the household circumstances during the budget month:

(a) A household, except a migrant farm worker household, with earned income;

(b) A household with a recent work history; and

(c) An AFDC household subject to mandatory monthly reporting.

(2) A household with a recent work history shall report for two months:

(a) Beginning the month following the month of opening at initial application, or

(b) After the last month of earnings during the certification period.

(3) The department shall require a household report monthly to verify information necessary to:

(a) Determine the household's eligibility, and

(b) Compute the household's benefits.

(4) The department shall notify a household if:

(a) Its monthly report is late,

(b) Its monthly report is incomplete, or

(c) Additional information is needed.

(5) If the household furnishes a completed report to the department by the end of the process month, the department shall:

(a) Accept the monthly report, and

(b) Continue benefits if the household remains eligible.

(6) The department shall terminate a household failing to return a completed report by the end of the process month.

(7) The department shall not require a household that reports monthly to report changes prior to reporting on the monthly report.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-590, filed 12/31/87.]

WAC 388-49-600 Notices to households. (1) The department shall notify a certified household of any change:

(a) At least ten days prior to the change, or

(b) By the date benefits are to be received for a household reporting changes on the monthly report.

(2) The department shall not be required to provide advance notice when:

(a) The federal or state government makes mass changes,

(b) The department determines all household members have died,

(c) The household moves from the state,

(d) The department restored lost benefits and notified the household previously in writing when the increased allotment would terminate,

(e) The department notified the household at the time of certification that allotments would vary from month to month,

(f) The household experiences reduction in benefits upon approval of a public assistance grant, or

(g) 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 74.04.050. 88-02-031 (Order 2575), § 388-49-600, filed 12/31/87.]

WAC 388-49-610 Changes--Prospective budgeting.

(1) The department shall act on changes occurring in the first beginning month, changes for households described in WAC 388-49-520(1), and changes in the income described in WAC 388-49-520(2) which affect benefit increases as follows:

(a) If the change is verified within ten days after the change is reported, budget the change for the next allotment; or

(b) If the change is not verified within ten days after the change is reported, budget the change for the next allotment after the verification is received.

(2) The department shall act on changes affecting a benefit decrease following adverse action notice rules in WAC 388-49-600 unless the household requests:

(a) A fair hearing; and

(b) Continuation of benefits.

[Statutory Authority: RCW 74.04.050. 88-16-080 (Order 2661), § 388-49-610, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-610, filed 12/31/87.]

WAC 388-49-620 Changes--Retrospective budgeting.

Changes in a budget month for households under retrospective budgeting shall be effective in the corresponding issuance month except that the addition or deletion of a household member and his or her income shall be considered prospectively.

[Statutory Authority: RCW 74.04.050. 88-16-080 (Order 2661), § 388-49-620, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-620, filed 12/31/87.]

WAC 388-49-630 Changes--Reporting requirements. A household certified for more than one month and not subject to mandatory monthly reporting shall report the following changes within ten days of the date the change becomes known to the household:

(1) Change in the source of income;

(2) Change in the amount of gross monthly income, except for public assistance income, or medical expenses of more than twenty-five dollars;

(3) Change in the household composition, such as the addition or loss of a household member;

(4) Change in residence and resulting change in shelter cost;

(5) The acquisition of licensed vehicles; and

(6) When nonexempt liquid resources exceed two thousand dollars or three thousand dollars for households with one or more members sixty years of age or older.

[Statutory Authority: RCW 74.04.050, 88-02-031 (Order 2575), § 388-49-630, filed 12/31/87.]

WAC 388-49-640 Overissuances. (1) The department shall establish claims and take collection action against households and household members for administrative error, inadvertent household error, or intentional program violation resulting in overissuances except as provided in subsections (3), (10), and (11) of this section.

(2) The department shall establish an overissuance claim against any household:

(a) Receiving more food stamp benefits than it was entitled to receive, or

(b) Containing an adult member who was an adult member of another household receiving more benefits than it was entitled to receive.

(3) The department shall not establish an administrative error claim or an inadvertent household error claim if an overissuance occurred because:

(a) The department failed to ensure the household:

(i) Signed the application form,

(ii) Completed a current work registration form, or

(iii) Was certified in the correct project area.

(b) The household transacted an expired food coupon authorization (FCA) unless the household had altered the FCA.

(4) The department shall hold all persons, who were adult members of the household at the time of the overissuance jointly and severally liable for the overissuance.

(a) The department shall establish an overissuance claim and pursue collection action against any or all of these persons.

(b) If the household composition changes, the department may establish an overissuance claim and pursue collection action against any household containing a person who was an adult member of the household receiving the overissuance.

(5) The department shall not collect more than the amount of the overissuance.

(6) The department shall calculate the allotment the household should have been authorized when the department discovers:

(a) An administrative error or inadvertent household error occurred in the prior twenty-four months, or

(b) An intentional program violation in the prior seventy-two months.

(7) Except as provided in subsection (8) of this section, the amount of the overissuance shall be the difference between:

(a) The monthly allotment actually authorized, and

(b) The monthly allotment the household should have been authorized.

(8) When determining the monthly allotment the household should have been authorized, the department shall not apply the 20 percent earned income deduction:

(a) To that portion of earned income which the household intentionally failed to report;

(b) When the department has determined that the household committed an intentional program violation.

(9) The amount of the household's and/or household member's liability for an overissuance shall be the difference between:

(a) The amount of the overissuance, and

(b) Any lost benefits that have not been previously restored or used as an offset.

(10) The department shall initiate collection action on all inadvertent household or administrative error claims unless:

(a) The claim is collected through offset,

(b) The total amount of the claim is less than thirty-five dollars and the claim cannot be recovered by reducing the household's allotment,

(c) The department cannot locate the liable household, or

(d) The department determines collection action will prejudice an inadvertent household error claim case being referred for possible prosecution or administrative disqualification.

(11) The department shall initiate collection action against the liable household whose member is found to have committed an intentional program violation unless:

(a) The household has repaid the overissuance,

(b) The department cannot locate the household, or

(c) The department determines collection action will prejudice the case against a household member referred for prosecution.

(12) The department shall initiate collection action by providing the household a demand letter.

(13) A household or household member may repay an overissuance except as provided in subsections (14) through (18) of this section by:

(a) A lump sum,

(b) Regular installments under a payment schedule agreed to by the household or household member and the department, and/or

(c) Allotment reductions.

(14) When the allotment reduction is the method of collection, the department shall reduce a currently participating household's allotment to repay an:

(a) Inadvertent household error overissuance by the greater of:

(i) Ten percent of the household's monthly allotment, or

(ii) Ten dollars per month.

(b) Intentional program violation overissuance by the greater of:

(i) Twenty percent of the household's monthly entitlement, or

(ii) Ten dollars per month.

(c) Administrative error overissuance by the amount agreed to by the household.

(15) A household member and/or the department may request the payment schedule be renegotiated.

(16) The department shall ensure the negotiated monthly installment amount is not less than the amount which could be recovered through allotment reduction when:

(a) A current participating household is liable for an inadvertent household error or an intentional program violation, and

(b) An installment payment schedule is the method of collection.

(17) The department shall reduce the allotment to repay an inadvertent household error or an intentional program violation overissuance without additional notice if, after notification of failure to make payment in accordance with a repayment schedule, the household member fails:

(a) To make the overdue payments, or

(b) To request renegotiation of the payment schedule.

(18) The department shall reduce the household's allotment if:

(a) The household member fails to respond to the demand letter within thirty days of the date the notice is mailed, and

(b) The household is liable for an inadvertent household error or an intentional program violation claim.

(19) The department shall suspend collection action when:

(a) Collection action has not been initiated as provided in subsection (10) of this section,

(b) A liable household member cannot be located, or

(c) The cost of further collection action is likely to exceed the amount that can be recovered.

(20) The department may accept offers of compromise for overissuances when:

(a) The department has already established the account receivable for the overissuance and taken steps to recover the overissuance; and

(b) The amount offered approximates the net amount expected to be collected prior to the expiration of the collection period allowed by statute.

(21) The department shall write-off amounts from its account receivable records and release any applicable liens prior to the expiration of the collection period allowed by statute when there is:

(a) No further possibility of collection;

(b) An account receivable balance after payment of an accepted offer of compromise; or

(c) An account receivable balance after a claim has been in suspense for three consecutive years, as provided in subsection (19) of this section.

[Statutory Authority: RCW 74.04.510. 88-08-039 (Order 2610), § 388-49-640, filed 4/1/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-640, filed 12/31/87.]

WAC 388-49-650 Alien sponsor overissuances.

(1) When an overissuance to a sponsored alien results from incorrect information provided by the alien's sponsor, the department shall consider both the alien and sponsor liable to repay the overissuance.

(2) The department shall initiate collection regardless of the current food stamp eligibility of the sponsored alien or sponsored alien's household.

(3) When the alien's sponsor had good cause for reporting the incorrect information, the department shall consider the sponsored alien solely liable for the inadvertent household error overissuance.

(4) When good cause does not exist, the department shall initiate collection against:

(a) The alien's sponsor, or

(b) The sponsored alien's household, or

(c) Both at once, or

(d) The party deemed most likely to repay first.

(5) The department shall initiate collection action against the sponsored alien's household as an inadvertent household error when:

(a) Collection action is taken first against the alien's sponsor, and

(b) The alien's sponsor does not respond within thirty days, or

(c) Incorrect information concerning the alien's sponsor or sponsor's spouse was supplied by the sponsored alien through misunderstanding or unintended error.

(6) The department shall initiate collection action against an alien's sponsor as an inadvertent household error provided:

(a) The sponsor is informed in writing the department will not hold the sponsor responsible for repayment if good cause is demonstrated, and

(b) A department representative contacts the sponsor.

(7) The department shall accept a lump sum or regular installment payments from the sponsor.

(8) The department shall refund to the sponsored alien or alien's sponsor household any amount they repay in excess of the overissuances.

(9) The department shall pursue a determination of intentional program violation against a sponsored alien's household if misrepresentation or fraud is alleged.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-650, filed 12/31/87.]

WAC 388-49-660 Intentional program violations—Administrative disqualification hearings. Administrative disqualification hearings are governed by chapters 10-08 and 388-08 WAC and WAC 388-49-660.

(1) The department shall refer an individual who has no prior intentional program violation but who is suspected of committing an intentional program violation for an administrative disqualification hearing when:

(a) The overissuance caused by the suspected intentional program violation is two hundred and fifty dollars or more; or

(b) The sum of the overissuance caused by the suspected intentional program violation and all inadvertent household error overissuances that occurred in the two years immediately preceding the date of discovery of the

suspected intentional program violation is two hundred and fifty dollars or more; and

(c) At the time of referral, the individual resides:

(i) In Washington state; or

(ii) Resides outside Washington but within one hour's reasonable drive to a community services office; and

(d) The department determines that administrative proceedings will not jeopardize criminal prosecution.

(2) The department shall refer an individual who has committed one or more intentional program violations and who is suspected of committing another intentional program violation when:

(a) The act of suspected intentional program violation occurred:

(i) After the department mailed the administrative decision disqualifying the individual for the most recent intentional program violation; or

(ii) After entry of the order in criminal proceedings that caused the individual to be disqualified for the most recent intentional program violation; and

(b) At the time of referral, the individual resides:

(i) In Washington state; or

(ii) Resides outside Washington but within one hour's reasonable drive to a community services office; and

(c) The department determines that administrative proceedings will not jeopardize criminal prosecution.

(3) The department shall:

(a) Give at least thirty days advance notice of the hearing date to the person or persons alleged to have committed an intentional program violation as defined in WAC 388-49-020, and

(b) Obtain proof of receipt of the notice.

(4) The notice of hearing shall comply with WAC 10-08-040 and contain the following information:

(a) The allegations;

(b) A summary of the department's evidence;

(c) A statement of how and where the evidence can be examined;

(d) A statement that if the person or a 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

(e) A statement that the person has ten days from the date of the scheduled hearing:

(i) To file a request with the administrative law judge showing good cause for failure to appear, and

(ii) Seeking a new hearing; and

(f) A statement that if a telephone hearing is scheduled, the person may request an in-person hearing by filing a request with the administrative law judge at least one week prior to the date of the hearing.

(5) The person or a representative shall have the right to one continuance of up to thirty days provided a request is filed at least ten days prior to the hearing date.

(6) The department shall conduct the hearing without the person or a representative if they fail to appear at the hearing without good cause.

(a) The decision shall be based solely on the evidence and argument the department presents.

(b) The person has ten days from the date of the scheduled hearing to file a request with the administrative law judge:

(i) Showing good cause for failure to appear, and

(ii) Requesting the hearing be reinstated.

(7) The administrative law judge shall grant a request to change a scheduled telephone hearing to an in-person hearing if the person or representative:

(a) Files the request at least one week before the date the hearing is scheduled, or

(b) Files the request one week or less before the date the hearing is scheduled if the person shows good cause for having the hearing conducted in person.

(8) The administrative law judge shall advise the person or representative they may refuse to answer questions during the hearing.

(9) The department shall bear the burden of proof for demonstrating intentional program violation with clear and convincing evidence.

(10) The department shall follow the decision-rendering in WAC 388-08-406.

(11) The department shall make a final decision within ninety days of the date the individual receives the notice of hearing.

(12) The department may combine an overissuance fair hearing and an administrative disqualification hearing into a single hearing when the facts alleged for each arise out of the same or related circumstances. When combined:

(a) The hearing procedures and time frames shall be those applicable to an administrative disqualification hearing,

(b) The household loses its right to a subsequent fair hearing on the overissuance, and

(c) The department shall give prior notice to:

(i) The person or persons alleged to have committed the intentional program violation, and

(ii) The person or persons alleged to be liable for the overissuance.

[Statutory Authority: RCW 74.04.510, 88-08-040 (Order 2609), § 388-49-660, filed 4/1/88. Statutory Authority: RCW 74.04.050, 88-02-031 (Order 2575), § 388-49-660, filed 12/31/87.]

WAC 388-49-670 Intentional program violations--Disqualification penalties. (1) The department shall disqualify the person or persons committing an intentional program violation, but not the entire household, as defined in WAC 388-49-020.

(2) The department shall apply disqualification penalties as follows:

(a) If the violation occurred in whole or in part after the household was notified of the following penalties, these disqualification periods shall apply:

(i) Six months for the first disqualification,

(ii) Twelve months for the second disqualification, and

(iii) Permanently for the third disqualification.

(b) The department shall disqualify the person for three months:

(i) If the violation ended prior to the household being notified of the penalties in subsection (2)(a) of this section, and

(ii) If the disqualification was determined in an administrative hearing.

(c) The department shall consider multiple violations occurring prior to the household being notified of the penalties in subsection (2)(a) of this section as only one disqualification.

(d) Court-ordered disqualifications are for the length of time specified by the court. The department shall:

(i) Recommend that a disqualification penalty, as provided in subsection (2)(a) of this section, be imposed in addition to any civil or criminal intentional program violation penalties;

(ii) Initiate the disqualification period for currently eligible persons within forty-five days of the date the disqualification is ordered if the court does not specify a date;

(iii) Impose a disqualification period as specified in subsection (2)(a) of this section if the court fails to address or specify a disqualification period; and

(iv) Not initiate or continue an intentional program violation disqualification period contrary to a court order.

(3) The department shall provide written notice of disqualification to the person or persons prior to disqualification. The notice shall inform:

(a) Participating persons of the disqualification and the effective date of the disqualification, or

(b) Nonparticipating persons that the disqualification period shall be deferred until such time as the person or persons applies for and is found eligible for benefits.

(4) The department shall provide written notice to the remaining household member or members, if any, of:

(a) The allotment the household will receive during the period of disqualification; or that

(b) The household must reapply because the certification period has expired.

(5) The department shall recognize an intentional program violation determined in another state or political jurisdiction.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-670, filed 12/31/87.]

WAC 388-49-680 Agency conference. (1) The department shall offer a conference to households contesting denial of expedited services. This conference shall be scheduled within two working days unless the household requests a later date.

(2) The department shall offer a conference to households adversely affected by an agency action.

(3) The department shall advise the household the conference:

(a) Is optional, and

(b) Will not delay or replace the fair hearing.

(4) An eligibility supervisor or CSO administrator shall attend the conference with the household member and/or representative.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-680, filed 12/31/87.]

WAC 388-49-690 Fair hearings. Fair hearings in the food stamp program are governed by chapters 10-08 and 388-08 WAC and WAC 388-49-690.

(1) At application and any time a household disagrees with a department decision, the department shall inform the household, in writing, of the:

(a) Right to a hearing,

(b) Method to request a hearing,

(c) Right to have a household member present their case, and

(d) Availability of free legal representation.

(2) The household has the right to a fair hearing on:

(a) An action by the department or loss of benefits occurring in the prior ninety days;

(b) A denial of a request for restoration of any benefits lost more than ninety days, but less than a year prior to the request; or

(c) Any dispute of current benefit level at any time within a certification period.

(3) The department shall grant an alien's sponsor household the right to a fair hearing to contest:

(a) A determination that the sponsor was at fault for providing incorrect information, or

(b) The overissuance amount.

(4) A request for a hearing is any oral or written request by a household or its representative. The person must request a hearing within ninety days of the household's receipt of the decision being appealed.

(5) The department shall schedule and provide advance notice of the hearing to all involved parties at least twenty days prior to the hearing.

(6) Before and during the hearing, a household or its representative with written authorization may inspect the department's files containing information related to the issue in the hearing request.

(7) The department shall not release confidential information including:

(a) Name of persons providing information about the household without its knowledge, and

(b) Nature and status of pending criminal prosecutions.

(8) The department shall:

(a) Assist the household in preparing the hearing request;

(b) Advise the household of its right to reapply for benefits pending the hearing;

(c) Upon request, provide bilingual interpreters; and

(d) Upon request, provide the household or its representative:

(i) Any material needed to determine if a hearing should be requested or to prepare for a hearing,

(ii) Free copies of pertinent material from the case record, and

(iii) Any information of legal services available to the client.

(9) The department shall conduct a hearing:

(a) In the household's county of residence unless the household asks for or agrees to a hearing in another, or

(b) By telephone with the household in their county of residence.

(10) The decision-rendering rule is as described in WAC 388-08-409 and 388-08-413, except the period to file a timely petition for review is ten days from the date the initial decision is mailed.

(11) The department shall make a final decision within sixty days of the receipt of the hearing request. The department shall:

(a) Extend the time by the number of days a hearing is continued based on a request by or with the agreement of the household, and

(b) Expedite hearing requests from households planning to move from the state before the hearing decision would normally be made.

(12) The department shall carry out the hearing decision to:

(a) Provide lost benefits when:

(i) The household was incorrectly denied benefits, or

(ii) Fewer benefits were issued than were due.

(b) Increase benefits within ten days of the receipt of the decision,

(c) Decrease benefits in the first scheduled issuance following the receipt of the decision, and

(d) Establish a claim for any overissuance if the department's action was correct.

(13) The department shall, upon written request made within one year of the hearing, provide the household a free copy of the tape recording of the hearing.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-690, filed 12/31/87.]

WAC 388-49-700 Fair hearings--Continuation of benefits pending. (1) The department shall continue benefits at the contested or previous level pending a fair hearing if:

(a) The client requests a hearing within the period specified by the notice of adverse action,

(b) The certification period has not expired,

(c) The household has not waived continuation of benefits, and

(d) Households subject to monthly reporting submit a completed monthly report timely for each month of continued benefits.

(2) The department shall reduce or terminate benefits if a hearing request is not made within the period specified in the notice, unless failure to make the request was for good cause.

(3) Once continued or reinstated, the department shall not reduce or terminate benefits prior to receipt of the hearing decision unless:

(a) The certification period expires,

(b) The hearing officer makes a preliminary determination in writing and at the hearing:

(i) The sole issue is one of federal law or regulations, and

(ii) The household's claim the department improperly computed benefits or misapplied such law or regulation is invalid, or

(c) The household fails to request a new hearing after receiving a notice of adverse action on a change occurring pending the hearing decision, or

(d) A mass change occurs while the hearing decision is pending, and

(e) A household whose certification period expired has made a timely application for a new certification period pending receipt of a hearing decision.

(4) For households subject to monthly reporting, the department shall continue benefits within five working days from the day the request for continued benefits is received.

(5) The department shall act on reported changes without regard to the matter at issue in the hearing:

(a) During the certification period,

(b) When a monthly report is received, or

(c) When a timely application is made for a new certification period pending receipt of a hearing decision.

(6) The department shall promptly inform the household in writing if benefits are reduced or terminated pending the hearing decision.

(7) The department shall establish a claim for all overissuances if the department's action is upheld by the hearing decision.

[Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-700, filed 12/31/87.]

Chapter 388-53 WAC

DISASTER AND RELIEF PROGRAM-- INDIVIDUAL AND FAMILY GRANT

WAC

388-53-010	Purpose.
388-53-020	Repealed.
388-53-030	Repealed.
388-53-040	Repealed.
388-53-050	Eligibility for grants.
388-53-060	Repealed.
388-53-070	Repealed.
388-53-080	Repealed.
388-53-090	Repealed.
388-53-100	Repealed.
388-53-120	Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-53-020	Definitions. [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.] Repealed by 87-12-053 (Order 2498), filed 6/1/87. Statutory Authority: RCW 38.52.030.
388-53-030	Authorization of program. [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.] Repealed by 87-12-053 (Order 2498), filed 6/1/87. Statutory Authority: RCW 38.52.030.
388-53-040	Administrative procedures. [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.] Repealed by 87-12-053 (Order 2498), filed 6/1/87. Statutory Authority: RCW 38.52.030.
388-53-060	Allocation of funds. [Order 1104, § 388-53-060, filed 3/11/76.] Repealed by 87-12-053 (Order 2498), filed 6/1/87. Statutory Authority: RCW 38.52.030.

- 388-53-070 Expenditures and 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.] Repealed by 87-12-053 (Order 2498), filed 6/1/87. Statutory Authority: RCW 38.52.030.
- 388-53-080 Organization and functions. [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.] Repealed by 87-12-053 (Order 2498), filed 6/1/87. Statutory Authority: RCW 38.52.030.
- 388-53-090 Administrative panel. [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.] Repealed by 87-12-053 (Order 2498), filed 6/1/87. Statutory Authority: RCW 38.52.030.
- 388-53-100 Appeal process—GCO reconsideration. [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.] Repealed by 87-12-053 (Order 2498), filed 6/1/87. Statutory Authority: RCW 38.52.030.
- 388-53-120 Administrative plan review. [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.] Repealed by 87-12-053 (Order 2498), filed 6/1/87. Statutory Authority: RCW 38.52.030.

WAC 388-53-010 Purpose. The purpose of these rules is to set forth the conditions and time limits and to enumerate the items and services which make disaster assistance available to individuals and families following a presidential declaration of a major disaster in the state. P.L. 93-288 (the Disaster Relief Act of 1974) and 44 CFR 205.54 provide for grants up to five thousand dollars in the individual and family grant (IFG) program. Chapter 38.52 RCW places responsibility for determining eligibility standards with the department of social and health services. Program administration rules and procedures are contained in chapter 118-33 WAC and the administrative plan for the IFG program.

[Statutory Authority: RCW 38.52.030. 87-12-053 (Order 2498), § 388-53-010, filed 6/1/87; 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-53-030 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-53-040 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-53-050 Eligibility for grants. (1) General. In order to qualify for a grant under this section, an individual or family representative shall:

(a) Make application to all applicable available governmental disaster programs for assistance to meet a necessary expense or serious need, and be determined

not qualified for such assistance, or demonstrate that the assistance received does not satisfy the total necessary expense or serious need.

(b) Not have previously received or refused assistance from other means for the specific necessary expense or serious need, or portion thereof, for which application is made.

(c) Certify to refund to the state that part of the grant for which assistance from other means is received, or which is not spent as identified in the grant award document.

(d) Be informed by the department that individuals or families who incur a necessary expense or serious need in the major disaster area may be eligible for assistance under this section without regard to their alienage, residency in the major disaster area or within the state in which the major disaster has been declared.

(e) Live in an area in which a grant may be authorized.

The Flood Disaster Protection Act of 1973, P.L. 93-234, as amended, imposes certain restrictions on approval of federal financial assistance for acquisition and construction purposes. Subpart K of Part 205 implements P.L. 93-234 for FEMA assistance generally. 44 CFR 205.54 refines those requirements for the individual and family grant program. To the extent that IFG regulations are inconsistent with Subpart K, the IFG regulations apply.

(f) Make application within sixty days following the date on which the major disaster was declared:

(i) Except that 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 assistant director of the division of emergency management 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) Application shall be taken on forms provided by the Federal Emergency Management Agency at times and places made available by the state coordinating officer and the Federal Coordinating Officer. An application on the FEMA Disaster Assistance Registration Application Form allows the individual or family to apply to all applicable governmental programs available simultaneously.

(g) Apply to the Small Business Administration (SBA) or Farmers Home Administration (FMHA) (if participating) for loan assistance for repair, replacement, or rebuilding of real or personal property, transportation or other eligible items/services, and be determined ineligible, or the assistance from SBA/FMHA must be insufficient, before they can be found eligible for an individual and family grant.

(2) Eligible categories. Assistance may be made available to meet disaster-related 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. These are minimization measures required by owner-occupants to comply with the provisions of 44 CFR Part 9 (Floodplain management and protection of wetlands), to enable them to receive assistance from other means and/or to comply with a community's floodplain management regulation.

(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.

Grants may be authorized to replace, repair, or provide privately-owned vehicles, or provide public transportation. The cost of replacing the vehicle should not exceed fifty percent of the maximum grant, except in the instance of a handicapped person needing special controls.

(e) Funeral expenses.

Grants may include funeral and burial (and/or cremation) expenses, less payment from other sources e.g., Social Security, veterans benefits, etc.

(f) Flood insurance requirements.

Individuals or families eligible for a grant under this section who live in a flood hazard area (Zone A or V) shall purchase and maintain adequate flood insurance and shall maintain such insurance for three years, or as long as they live in the affected area, whichever is less.

(i) Adequate flood insurance for homeowners is at least five thousand dollars for real property and two thousand dollars for contents coverage.

(ii) Adequate coverage for renters is five thousand dollars flood insurance on their personal property.

(iii) The first year's flood insurance premium is an eligible cost and is to be included in the award. If the same premium will provide more than the required coverage, the higher coverage should be obtained.

(iv) Grant recipients required to obtain flood insurance must furnish proof of purchase to the grant coordinating officer.

(g) Estimates.

Cost for estimates required for eligibility determinations under the IFG program. Housing and personal property estimates will be provided by the government. However, an applicant may appeal to the state if he/she feels the government estimate is inaccurate. The cost of an applicant-obtained estimate to support the appeal is not an eligible cost.

(3) Ineligible categories. Assistance shall not be made available for any item or service in the following categories.

(a) Business losses, including farm businesses, self-employment and loss of wages.

(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, 87-12-053 (Order 2498), § 388-53-050, filed 6/1/87; 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-53-070 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-53-080 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-53-090 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-53-100 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-53-120 Repealed. See Disposition Table at beginning of this chapter.

Chapter 388-54 WAC FOOD ASSISTANCE PROGRAMS

WAC
388-54-600 through 388-54-850 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-54-600 Purpose of program. [Statutory Authority: RCW 74.04.510, 79-03-033 (Order 1374), § 388-54-600, filed 3/1/79.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.

- 388-54-601 Definitions. [Statutory Authority: RCW 74.04.510. 87-15-055 (Order 2512), § 388-54-601, filed 7/14/87; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-605 General food stamp provisions. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-610 Application and participation—Initiating the application. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-615 Application and participation—Applications processed by the Social Security Administration district offices (SSADO). [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-620 Application and participation—Interview. [Statutory Authority: RCW 74.04.510 [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-625 Application and participation—Time limits. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-630 Application and participation—Verification. [Statutory Authority: RCW 74.04.510. 87-09-028 (Order 2482), § 388-54-630, filed 4/9/87; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-635 Application and participation—Authorized representative. [Statutory Authority: RCW 74.04.510. 87-15-054 (Order 2491), § 388-54-635, filed 7/14/87; 82-24-005 (Order 1905), § 388-54-635, filed 11/18/82; 79-03-033 (Order 1374), § 388-54-635, filed 3/1/79.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-640 Application and participation—Opportunity to participate. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-645 Application and participation—Expedited service. [Statutory Authority: RCW 74.04.510. 87-12-052 (Order 2497), § 388-54-645, filed 6/1/87; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-650 Application and participation—Participation of public assistance households. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-655 Application and participation—Destitute households. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-660 Application and participation—Special circumstances for participation. [Statutory Authority: RCW 74.04.510. 87-15-054 (Order 2491), § 388-54-660, filed 7/14/87; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-662 Categorical eligibility. [Statutory Authority: RCW 74.04.510. 87-06-003 (Order 2470), § 388-54-662, filed 2/19/87.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-665 Household determination. [Statutory Authority: RCW 74.04.510. 87-15-054 (Order 2491), § 388-54-665, filed 7/14/87; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-670 Students. [Statutory Authority: RCW 74.04.510. 87-03-019 (Order 2462), § 388-54-670, filed 1/13/87; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-675 Work registration and job search. [Statutory Authority: RCW 74.04.510. 87-15-055 (Order 2512), §

- 388-54-675, filed 7/14/87; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-676 Workfare. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-677 Voluntary quit. [Statutory Authority: RCW 74.04.510. 87-15-055 (Order 2512), § 388-54-677, filed 7/14/87; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-679 Strikers. [Statutory Authority: RCW 74.04.510. 85-09-013 (Order 2222), § 388-54-679, filed 4/8/85.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-680 Citizenship and alien status. [Statutory Authority: RCW 74.04.510. 87-22-011 (Order 2548), § 388-54-680, filed 10/26/87; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-685 Residency. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-687 Social Security number (SSN). [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-690 Resources—Allowable maximums. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-695 Resources—Exempt. [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), § 388-54-695, filed 12/19/79; 79-03-033 (Order 1374), § 388-54-695, filed 3/1/79.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-715 Resources—Nonexempt. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-717 Resources—Vehicles. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-720 Resources—Transfer of property. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-725 Income—Definitions. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-728 Income eligibility. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-730 Income—Eligibility standards. [Statutory Authority: RCW 74.04.510. 87-14-071 (Order 2511), § 388-54-730, filed 7/1/87; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-735 Income—Exclusions. [Statutory Authority: RCW 74.04.510. 87-03-019 (Order 2462), § 388-54-735, filed 1/13/87; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-737 Income—Energy allowance. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-740 Income—Deductions. [Statutory Authority: RCW 74.04.510. 87-22-095 (Order 2556), § 388-54-740, filed 11/4/87. Statutory Authority: RCW 74.04.510. 87-17-044 (Order 2523), § 388-54-740, filed

- 8/17/87; 87-12-051 (Order 2496), § 388-54-740, filed 6/1/87; 87-03-054 (Order 2467), § 388-54-740, filed 1/21/87; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-745 Income—Budgeting. [Statutory Authority: RCW 74.04.510. 87-03-054 (Order 2467), § 388-54-745, filed 1/21/87; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-750 Income—Self-employment. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-755 Income—Boarders. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-755, filed 3/1/79.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-760 Certification periods. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-765 Certification periods—Notices to households. [Statutory Authority: RCW 74.04.510. 87-06-003 (Order 2470), § 388-54-765, filed 2/19/87; 84-06-014 (Order 2077), § 388-54-765, filed 2/28/84; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-768 Food stamp monthly reporting. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-770 Certification periods—Households responsibility to report. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-775 Certification periods—Effecting changes under prospective budgeting. [Statutory Authority: RCW 74.04.510. 87-12-057 (Order 2502), § 388-54-775, filed 6/1/87; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-776 Certification periods—Effecting changes during the certification period under retrospective budgeting. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-780 Recertification process. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-785 Issuance—Monthly allotments. [Statutory Authority: RCW 74.04.050. 87-22-095 (Order 2556), § 388-54-785, filed 11/4/87. 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-790 Issuance—Use and redemption. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-795 Issuance—Identification cards. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-795, filed 3/1/79.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-800 Issuance—Replacement allotments. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-805 Issuance—Restoration of lost benefits. [Statutory Authority: RCW 74.04.510. 87-06-003 (Order 2470), § 388-54-805, filed 2/19/87; 83-21-009 (Order 2030),

- § 388-54-805, filed 10/6/83; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-815 Conference. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-817 Administrative hearings. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-820 Fair hearings—Continuation of benefits pending. [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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-82650 Intentional program violation disqualification penalties. [Statutory Authority: RCW 74.04.510. 83-21-011 (Order 2032), § 388-54-82650, filed 10/6/83.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-83050 Treatment of income and resources of excluded members. [Statutory Authority: RCW 74.04.510. 83-21-011 (Order 2032), § 388-54-83050, filed 10/6/83.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.
- 388-54-850 Overpayments. [Statutory Authority: RCW 74.04.510. 87-07-032 (Order 2475), § 388-54-850, filed 3/13/87; 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.] Repealed by 88-02-031 (Order 2575), filed 12/31/87. Statutory Authority: RCW 74.04.050.

Reviser's note: Later promulgation, see chapter 388-49 WAC.

WAC 388-54-600 through 388-54-850 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 388-57 WAC

EMPLOYMENT AND TRAINING—WORK INCENTIVE

WAC

- 388-57-010 Repealed.
- 388-57-011 Washington employment opportunities program (OPPORTUNITIES).
Repealed.
- 388-57-015 Repealed.
- 388-57-020 Repealed.
- 388-57-028 Repealed.
- 388-57-032 Repealed.
- 388-57-036 Repealed.
- 388-57-040 Work incentive program (WIN)—Authority.
- 388-57-045 Repealed.
- 388-57-056 Repealed.
- 388-57-057 Work incentive program—Certification and supportive services.
- 388-57-059 WIN program—Grievances.
- 388-57-061 Repealed.
- 388-57-063 WIN program—Failure to participate.

- 388-57-064 Repealed.
- 388-57-066 WIN program—Notice of intended deregistration.
- 388-57-067 WIN program—Sanction.
- 388-57-070 Repealed.
- 388-57-071 Work incentive program—Good cause.
- 388-57-074 OPPORTUNITIES program—Exemption and hearings.
- 388-57-090 Repealed.
- 388-57-097 Community work experience program (CWEP).
- 388-57-100 Employment search program (ESP).
- 388-57-105 Title IV—A employment programs—Complaints and grievances.
- 388-57-112 Title IV—A employment programs—Failure to participate without good cause.
- 388-57-115 Title IV—A employment programs—Sanction.
- 388-57-117 OPPORTUNITIES program—Effect of sanction on AFDC.
- 388-57-120 Employment partnership program (EPP)—Authority.
- 388-57-121 Repealed.
- 388-57-123 Employment partnership program—Eligible employers.
- 388-57-124 Employment partnership program—Conditions of employment.
- 388-57-125 Employment partnership program—Funding and payment.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-57-010 Utilization of employment security department. [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.] Repealed by 88-07-055 (Order 2607), filed 3/14/88. Statutory Authority: RCW 74.04.050.
- 388-57-015 Utilization of employment security department DES—Registration. [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.] Repealed by 88-07-055 (Order 2607), filed 3/14/88. Statutory Authority: RCW 74.04.050.
- 388-57-020 Unemployment compensation status—Verification. [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.] Repealed by 88-07-055 (Order 2607), filed 3/14/88. Statutory Authority: RCW 74.04.050.
- 388-57-028 Vocational training. [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.] Repealed by 88-07-055 (Order 2607), filed 3/14/88. Statutory Authority: RCW 74.04.050.
- 388-57-032 Employment and training (E&T) program. [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.] Repealed by 88-07-055 (Order 2607), filed 3/14/88. Statutory Authority: RCW 74.04.050.
- 388-57-036 Employment and training (E&T)—Definitions. [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.] Repealed by 88-07-055 (Order 2607), filed 3/14/88. Statutory Authority: RCW 74.04.050.
- 388-57-045 Work incentive program—Definitions. [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.] Repealed by 88-07-055 (Order 2607), filed 3/14/88. Statutory Authority: RCW 74.04.050.
- 388-57-056 Refusal to cooperate in appraisal prior to certification. [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.] Repealed by 88-07-055 (Order 2607), filed 3/14/88. Statutory Authority: RCW 74.04.050.
- 388-57-061 Refusal of training or employment under WIN/E&T without good cause. [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.] Repealed by 88-07-055 (Order 2607), filed 3/14/88. Statutory Authority: RCW 74.04.050.
- 388-57-064 Refusal of training or employment or reduction of earnings under WIN without good cause—Deregistration sanction and reacceptance to WIN. [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.] Repealed by 88-07-055 (Order 2607), filed 3/14/88. Statutory Authority: RCW 74.04.050.
- 388-57-070 Community services office—State employment service joint case responsibility. [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.]

- Repealed by 88-07-055 (Order 2607), filed 3/14/88. Statutory Authority: RCW 74.04.050.
- 388-57-090 Refusal of training or employment under WIN/employment and training without good cause—Fair hearings. [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.] Repealed by 88-07-055 (Order 2607), filed 3/14/88. Statutory Authority: RCW 74.04.050.
- 388-57-121 Purpose. [Statutory Authority: RCW 74.08.090. 86-16-047 (Order 2403), § 388-57-121, filed 8/1/86.] Repealed by 88-07-055 (Order 2607), filed 3/14/88. Statutory Authority: RCW 74.04.050.

WAC 388-57-010 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-011 Washington employment opportunities program (OPPORTUNITIES). (1) The Washington employment opportunities program (OPPORTUNITIES) is a group of employment and training programs for applicants and recipients of AFDC and includes:

- (a) Work incentive (WIN) program,
 - (b) Employment search program (ESP),
 - (c) Community work experience program (CWEP), and
 - (d) Employment partnership program (EPP).
- (2) An AFDC applicant/recipient shall not be subject to sanction for failure to participate in one program if assigned to and participating in another OPPORTUNITIES program.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-011, filed 3/14/88.]

WAC 388-57-015 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-020 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-028 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-032 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-036 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-040 Work incentive program (WIN)—Authority. (1) The work incentive program is authorized by the Social Security Act, Title IV, Part C; and in 45 CFR 224 and identical 29 CFR 56.

(2) The department of social and health services and the employment security department have joint administrative responsibility for WIN.

(3) DSHS has jurisdiction to conduct hearings on appeals regarding:

(a) WIN registration as an AFDC eligibility requirement, and

(b) AFDC grant change resulting from a WIN sanction (deregistration by ESD for refusal and/or failure to participate).

(4) ESD has jurisdiction to conduct hearings on appeals regarding:

(a) Refusal or failure to participate in WIN employment and training activity or WIN social services required for employability; and

(b) Grievances related to WIN requirements and services.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-040, filed 3/14/88; 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 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-056 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-057 Work incentive program--Certification and supportive services. (1) The department shall certify registrants as to readiness for employment or training:

- (a) When referred to ESD for active participation, or
(b) When requested by ESD.

(2) The department shall certify a nonexempt AFDC-E qualifying parent within thirty days of grant opening.

(3) The department shall provide supportive social services needed for participation in an active WIN status and for thirty days from the start of paid employment. This is limited to the availability of federal and state funding for WIN.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-057, filed 3/14/88. 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 388-57-059 WIN program--Grievances. (1) A registrant not refusing or failing to participate may file with ESD a grievance regarding assignment to or provision of WIN services. The grievance may concern either manpower services from ESD or supportive social services from DSHS.

(2) A registrant may request a hearing with a state administrative law judge through ESD, in addition to pursuing local grievance procedure with ESD management.

(3) A participant shall not be relieved of required WIN participation pending the results of a filed grievance or request for a grievance hearing.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-059, filed 3/14/88.]

WAC 388-57-061 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-063 WIN program--Failure to participate. (1) This section applies to a registrant in a WIN status failing without good cause to participate in WIN.

(2) Failure to participate shall include, but is not limited to, refusal or failure to:

(a) Appear for two appointments with OPPORTUNITIES staff, including appointments for reappraisal of an unassigned recipient; or

(b) Appear for one appointment in three consecutive months with other than OPPORTUNITIES staff when referred for employment-related activity, including social services;

(c) Accept or continue WIN work experience, training, or supportive services required for employability; or

(d) Accept or continue employment without good cause.

(3) If there is overt refusal, an oral or written statement of unwillingness to participate, OPPORTUNITIES staff shall offer the registrant conciliation lasting no more than thirty days from date of refusal.

(4) If there is a defacto failure, behavior from which lack of participation is inferred, OPPORTUNITIES staff shall offer the registrant:

(a) A face-to-face appointment to determine good cause and begin conciliation, explaining in the appointment notice the reason for and the consequences of not keeping the appointment; and

(b) Conciliation lasting no more than thirty days from the face-to-face appointment.

(5) OPPORTUNITIES staff shall begin conciliation, counseling to restore participation, as soon as possible but no later than ten days after staff determine an overt or defacto failure exists.

(6) Conciliation activity shall consist of at least two attempts to involve the registrant and may continue for up to 30 calendar days.

(7) OPPORTUNITIES staff shall advise the registrant of the right to terminate conciliation and, where necessary, assist in preparing the written statement.

(8) OPPORTUNITIES must issue a notice of intended deregistration within two working days after unsuccessful termination of conciliation due to:

(a) Written request from the registrant to terminate conciliation, or

(b) Belief by OPPORTUNITIES staff that the dispute cannot be resolved by conciliation, based on current efforts, or

(c) Expiration of the thirty-day limit without resolution of the problem.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-063, filed 3/14/88.]

WAC 388-57-064 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-066 WIN program--Notice of intended deregistration. A notice of intended deregistration for sanction shall state:

- (1) Why the action is taking place, giving details;
- (2) The AFDC grant may be affected;
- (3) The number of payment months the deregistration shall stand; and
- (4) The right to appeal to ESD within ten days.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-066, filed 3/14/88.]

WAC 388-57-067 WIN program--Sanction. (1) A WIN sanction is the deregistration of a nonexempt registrant from OPPORTUNITIES by ESD for refusal or failure to participate without good cause while in a WIN status.

(2) The sanction shall begin on the first day of the first payment month the sanctioned individual's needs are removed from the AFDC grant.

(3) For the first occurrence, the sanction shall be for three consecutive payment months.

(4) For the second or subsequent occurrence, the sanction shall be for six consecutive payment months.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-067, filed 3/14/88.]

WAC 388-57-070 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-071 Work incentive program--Good cause. (1) This section applies to participants in WIN, including unassigned recipients subject to reappraisal.

(2) The OPPORTUNITIES staff member directing the activity shall make a reasonable effort to determine good cause prior to initiating sanction for refusal or failure to participate in WIN. A reasonable effort shall be a minimum of at least two attempts to contact the WIN client to determine good cause.

(3) The following conditions when verified shall constitute good cause for refusal or failure to participate in WIN. These include, but are not limited to:

(a) Physical, mental, or emotional inability to perform the required activity.

(b) Court-ordered appearance or temporary incarceration.

(c) Family or individual emergency or crisis.

(d) Breakdown in transportation arrangements, with no readily accessible alternate transportation.

(e) Inclement weather which prevents the individual and others similarly situated from traveling to or participating in the prescribed activity.

(f) Breakdown in child care arrangements, or child care not available to the single parent AFDC household.

(g) The nature of the required activity would be hazardous to the participant.

(h) The wages of the employment do not meet minimum wage standards or are not customary for such work in the community.

(i) The job is available because of a labor dispute.

(j) The employment referral was not for a specific job vacancy.

(k) Refusal to accept major medical treatment, e.g., major surgery, needed for employability.

(l) Refusal by an AFDC-E qualifying parent to accept employment of 100 hours or more per month, the wages for which, less mandatory payroll deductions and necessary work-related expenses, would not equal or exceed the family's AFDC cash benefits.

(m) The required activity would interrupt a program in process for permanent rehabilitation or self-support or conflict with an imminent likelihood of re-employment at the person's regular work.

(4) No person shall be required to perform a WIN activity unless supportive and manpower services necessary for participation are available. The absence, cessation, or withdrawal of such necessary services while the individual is in a WIN component shall constitute good cause for refusal to participate.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-071, filed 3/14/88.]

WAC 388-57-074 OPPORTUNITIES program--Exemption and hearings. (1) An AFDC applicant and/or recipient, claiming to be exempt from ESP/CWEP participation or WIN registration, shall be considered exempt until status is finally determined.

(2) DSHS has jurisdiction to conduct hearings on appeals by individuals claiming to be exempt from:

(a) ESP participation required of AFDC applicants and recipients,

(b) CWEP participation required of AFDC recipients, and

(c) WIN (OPPORTUNITIES) registration required of AFDC recipients.

(3) DSHS has jurisdiction to conduct hearings on appeals by individuals:

(a) Requesting a grievance hearing over an issue with either ESD or DSHS OPPORTUNITIES while participating in ESP, CWEP, or EPP;

(b) Contesting sanction (AFDC grant change or denial) for failure to participate while assigned to ESP or CWEP under the OPPORTUNITIES program; and

(c) Contesting an AFDC grant change as a result of a WIN sanction (deregistration by ESD from the OPPORTUNITIES program).

(4) ESD has jurisdiction to conduct hearings on appeals by individuals:

(a) Requesting a grievance hearing over an issue with either ESD or DSHS OPPORTUNITIES regarding WIN services or required WIN activity under the OPPORTUNITIES program,

(b) Contesting a WIN sanction (deregistration by ESD from the OPPORTUNITIES program), and

(c) Contesting a refusal by OPPORTUNITIES staff to register an individual following a WIN sanction.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-074, filed 3/14/88.]

WAC 388-57-090 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-097 Community work experience program (CWEP). The community work experience program (CWEP) is authorized by the Social Security Act, Title IV, Part A, and in 45 CFR 238, and under RCW 74.04.473.

(1) Any AFDC recipient shall, as a condition of eligibility for AFDC, participate when assigned to CWEP unless the individual:

(a) Is participating in an education or training program for increasing employability potential or job skills; or

(b) Meets the exemption criteria of WAC 388-24-107; or

(c) Is employed at least eighty hours per month and earning not less than the legally established minimum wage for such employment; 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 an area not having CWEP.

(2) The department shall:

(a) Provide coordination between CWEP, ESP, EPP and the WIN program:

(i) To ensure job placement will have priority over participation in CWEP, and

(ii) To ensure aid may not be denied on the grounds of failure to participate in CWEP if participants are participating in WIN, ESP, or EPP.

(b) Require appropriate standards of health, safety, and other conditions applicable to the performance of work;

(c) Ensure reasonable conditions of work, taking into account the geographic region, the residence of the participants, and the proficiency of the participants;

(d) 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;

(e) Ensure tasks have not been developed in response to the existence of a strike, lockout, or other bona fide labor dispute or violate any existing labor agreement between employees and employers;

(f) Reimburse necessary transportation costs;

(g) Pay customary departmental scale costs of child care needed in order to participate in CWEP;

(h) Not require the use of the participant's assistance or income or resources to pay participation costs;

(i) Provide assignments to CWEP projects will be made taking into consideration the prior training, proficiency, experience, and skills of a participant;

(j) Provide assignment to CWEP projects shall not require participants to travel unreasonable distances from home or to remain away from home overnight without consent; and

(k) Ensure agencies utilizing CWEP participants provide worker's compensation coverage through the department of labor and industries.

(3) CWEP participants shall participate in work experience slots designed to serve a useful public purpose in public agencies or private nonprofit organizations.

(4) The hours of CWEP participation required shall be no more than the number calculated by dividing the amount of the grant by the greater of the federal or state minimum wage, and are not to exceed one hundred twenty-eight hours during a calendar month. This is not to prevent a person from volunteering additional hours in a CWEP assignment. The AFDC payment shall not be construed as compensation for work performed.

(5) 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.

(6) DSHS has administrative and adjudicatory responsibility for CWEP.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-097, filed 3/14/88. 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 (ESP). The employment search program (ESP) is authorized by the Social Security Act, Title IV, Part A, and in 45 CFR 240.

(1) The purpose of this program is to reduce welfare dependency by assisting individuals in obtaining regular unsubsidized employment. It is a structured, job-seeking activity providing concentrated employment services, labor market information, and job-seeking skills.

(2) All AFDC applicants and recipients shall, as a condition of eligibility, participate when assigned to the employment search program, unless exempt under WAC 388-24-107.

(a) For an initial period, an individual assigned to the employment search program shall participate in the program for up to fifty-six consecutive days from the date a written request for AFDC is made.

(b) Individuals completing the initial fifty-six-day participation shall be subject to an additional forty-day participation in any subsequent twelve-month period.

(3) No individual shall be subject to concurrent job search requirements in WIN and the employment search program.

(4) The department shall provide child care and transportation expenses needed for participation in ESP. Participants shall be specifically informed at the time of assignment to ESP of the available of those services.

(5) ESP participants shall conduct job search according to a structured employability plan which outlines, in writing, the types, frequency, and duration of the activities in which the participant will engage a minimum number of job contacts each work week and identified participants' training needs for job search skills. This plan will take into account a participant's work history, abilities, job skills, education, labor market conditions, any barriers to employment, time of year, and other relevant factors, in order to identify regular unsubsidized employment which the participant seeks to attain. A participant dissatisfied with the content or execution of

the plan make invoke the procedures of WAC 388-57-105.

(6) DSHS has administrative and adjudicatory responsibility for ESP.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-100, filed 3/14/88. Statutory Authority: RCW 74.04.400. 84-18-024 (Order 2147), § 388-57-100, filed 8/29/84, effective 10/1/84.]

WAC 388-57-105 Title IV-A employment programs--Complaints and grievances. (1) WAC 388-57-105 applies to issues initiated by individuals assigned to ESP or CWEP having not refused or failed to participate. This section also applies to any EPP participant having a grievance.

(2) A participant shall be informed at the time of assignment to ESP or CWEP of the right to file a complaint or grievance with DSHS OPPORTUNITIES with regard to any matter concerning his or her participation. DSHS shall pursue the grievance in accordance with standard grievance procedures, as contained in WAC 388-33-389. The participant shall be further informed that filing such a complaint or grievance shall not preclude his or her right to request a DSHS fair hearing on the issue at any time.

(3) A participant shall not be relieved of required participation pending the results of a filed grievance.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-105, filed 3/14/88.]

WAC 388-57-112 Title IV-A employment programs--Failure to participate without good cause. (1) DSHS has the responsibility for determining if an individual has failed to meet the requirements for participation in ESP or CWEP and whether he or she had good cause for not meeting such requirements.

(a) DSHS shall make its determination prior to initiating any sanction against the individual.

(b) A face-to-face meeting with the participant should take place to obtain information. A telephone interview with the participant should be arranged if a face-to-face meeting is not possible. A decision may be made on the basis of information supplied by Employment Security Department only if a meeting or telephone interview with the participant is not possible after reasonable efforts, or not less than two attempts to contact the participant, have been made.

(c) Whether failure to participate or whether good cause for failing to participate exists depends on the facts and circumstances.

(2) Failure to participate in ESP and CWEP without good cause includes, but is not limited to:

(a) Not appearing for two appointments with OPPORTUNITIES staff within a three consecutive month period;

(b) Not appearing for one appointment with other than OPPORTUNITIES staff in a three consecutive month period when referred for employment-related activity, including social services;

(c) Not accepting or continuing work experience assignments under CWEP;

(d) Not conducting required job search or accepting an offer of suitable employment under ESP;

(e) Not accepting or continuing social services needed for participation; or

(f) Not retaining a CWEP assignment due to the participant's misconduct.

(3) For participants in CWEP, ESP, and EPP, good cause for failure to perform program requirements includes, but is not limited to:

(a) Physical, mental, or emotional inability to perform the required activity;

(b) Court-ordered appearance or temporary incarceration;

(c) Family or individual emergency or crisis;

(d) Breakdown in transportation arrangements, with no readily accessible alternate transportation;

(e) Inclement weather preventing the individual and others similarly situated from traveling to or participating in the prescribed activity;

(f) Breakdown in child care arrangements, or child care not available to the single-parent AFDC household;

(g) The nature of the required activity would be hazardous to the participant;

(h) The participant is engaged in an educational or training program for increasing employability potential or job skills;

(i) Nonreceipt of a notice of appointment with OPPORTUNITIES staff or non-OPPORTUNITIES staff;

(j) The wages of the employment do not meet minimum wage standards or are not customary for such work in the community. This does not apply to CWEP, as participants do not receive a wage;

(k) The job is available because of a labor dispute;

(l) Refusal to accept major medical treatment (e.g., major surgery) needed for employability; and

(m) Refusal by an AFDC-E qualifying parent to accept employment of one hundred hours or more per month, the wages for which, less mandatory payroll deductions and necessary work-related expenses, would not equal or exceed the family's AFDC cash benefits. This does not apply to CWEP, which does not involve wages.

(4) If DSHS determines there has been a failure to participate in ESP or CWEP program requirements without good cause and that sanction is appropriate, the participant shall be sent a notice that complies with WAC 388-33-376.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-112, filed 3/14/88.]

WAC 388-57-115 Title IV-A employment programs--Sanction. (1) A IV-A sanction is the denial or termination of AFDC due to ineligibility because of failure to participate while in ESP or CWEP status.

(2) A nonexempt individual failing to participate in ESP without good cause while an applicant shall be sanctioned by denial of AFDC. WAC 388-57-117 shall apply until the individual reapplies for AFDC.

(3) A nonexempt AFDC recipient failing to participate in ESP or CWEP without good cause shall be sanctioned as follows, in accordance with WAC 388-57-117:

(a) For the first occurrence, the sanction shall be for three payment months;

(b) For the second or subsequent occurrence, the sanction shall be for six payment months; and

(c) The sanction shall begin on the first day of the first payment month the sanctioned individual's needs can be removed from the AFDC grant, after DSHS financial services receives notification of failure to participate without good cause.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-115, filed 3/14/88.]

WAC 388-57-117 OPPORTUNITIES program--Effect of sanction on AFDC. (1) This section applies to:

(a) Nonexempt AFDC applicants sanctioned under ESP or WIN; and

(b) Nonexempt AFDC recipients sanctioned under WIN, ESP, or CWEP.

(2) The entire family shall be ineligible for AFDC if the sanctioned individual is:

(a) The only dependent child in the assistance unit, or

(b) The unemployed parent qualifying the family for AFDC-E.

(3) The sanctioned individual's needs shall not be considered in determining the family's need for assistance if the sanctioned person is:

(a) One of two or more dependent children on the grant, or

(b) The parent other than the qualifying parent on AFDC-E.

(4) If the sanctioned individual is the caretaker relative on an AFDC-R grant:

(a) The sanctioned individual's needs shall not be considered in determining the family's need for assistance, and

(b) Assistance to the remaining eligible family members shall be provided by protective payment as specified in WAC 388-33-450.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-117, filed 3/14/88.]

WAC 388-57-120 Employment partnership program (EPP)--Authority. The employment partnership program EPP is authorized by the Social Security Act, Title IV, Part A, and in 45 CFR 239. EPP is a subsidized on-the-job training program for AFDC recipients. It is a voluntary program.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-120, filed 3/14/88. Statutory Authority: RCW 74.08.090. 86-16-047 (Order 2403), § 388-57-120, filed 8/1/86.]

WAC 388-57-121 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-57-123 Employment partnership program--Eligible employers. An employer shall certify to the employment security department that the employment 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; and

(5) Program participants hired following the completion of the program shall be provided benefits equal to those provided to other employees.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-123, filed 3/14/88. Statutory Authority: RCW 74.08.090. 86-16-047 (Order 2403), § 388-57-123, filed 8/1/86.]

WAC 388-57-124 Employment partnership program--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.

[Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-124, filed 3/14/88. Statutory Authority: RCW 74.08.090. 86-16-047 (Order 2403), § 388-57-124, filed 8/1/86.]

WAC 388-57-125 Employment partnership program--Funding and payment. (1) The employer shall pay wages at the usual and customary rate of comparable jobs, or five dollars per hour, whichever is greater.

(2) When a job does not last six months following the subsidization period, the department shall recover state supplemented wages from an employer from the beginning of the subsidization period unless the employee:

(a) Voluntarily quits, or

(b) Is fired for good cause due to misconduct, felony, or gross misdemeanor, as determined under rules pursuant to chapter 50.20 RCW.

(3) Job placements shall have promotional opportunities or reasonable opportunities for wage increases.

(4) Supportive counseling and referral services may be provided.

(5) Employers shall provide monetary matching funds of at least fifty percent of total wages.

(6) Grants may be diverted for self-employment wages withheld for worker-owned businesses pursuant to RCW 43.168.050.

(7) A participant shall be considered an AFDC recipient and remain eligible for Medicaid benefits even if the participant does not receive a residual cash 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.

(8) A participant's total benefits will not decrease because of participation in the program.

[Statutory Authority: RCW 74.04.050, 88-07-055 (Order 2607), § 388-57-125, filed 3/14/88. Statutory Authority: RCW 74.08.090, 86-16-047 (Order 2403), § 388-57-125, filed 8/1/86.]

Chapter 388-70 WAC

CHILD WELFARE SERVICES—FOSTER CARE— ADOPTION SERVICES—SERVICES TO UNMARRIED PARENTS

WAC

388-70-013 Authorization for foster care placement.
388-70-056 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-70-056 Transportation and other expenses—Reimbursement. [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.] Repealed by 87-09-027 (Order 2481), filed 4/9/87. Statutory Authority: Chapter 74.13 RCW.

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.

(a) By the end of one hundred eighty days, the child shall return to his or her parent or guardian unless the juvenile court has made a judicial determination that return to the parent or guardian is contrary to the welfare of the child, or that continued placement in foster care is in the best interest of the child.

(b) The DCFS regional administrator or area manager may grant exceptions to the one hundred eighty-day limit on voluntary placements subject to the following limitation:

(i) DSHS conducted an administrative review fulfilling the requirements of P.L. 96-272 and the review chairperson recommends continuation of voluntary placement; and

(ii) The exception shall not cause the child to remain in care for greater than eighteen months without a court review hearing which meets the dispositional hearing requirements of P.L. 96-272; and

(iii) The child's return to the home is imminent; or

(iv) The child is seventeen years of age or older.

[Statutory Authority: RCW 74.08.090. 88-17-059 (Order 2669), § 388-70-013, filed 8/17/88; 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 388-70-056 Repealed. See Disposition Table at beginning of this chapter.

Chapter 388-77 WAC

FAMILY INDEPENDENCE PROGRAM

WAC

388-77-005	General provisions.
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388-77-200	Family independence program (FIP)—Summary of Title IV—A eligibility conditions.
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388-77-737	FIP transitional benefits.
388-77-810	Periodic review and redetermination of eligibility.
388-77-820	Food assistance.
388-77-900	Overpayments.

WAC 388-77-005 General provisions. (1) The department of social and health services adopts the following rules under authority of chapter 74.21 RCW.

(2) In those areas not expressly covered by chapter 388-77 WAC, it is the intent of the department that applicants/enrollees of the family independence program (FIP) be subject to and covered by the Washington Administrative Code applicable to:

(a) The aid to families with dependent children program (AFDC) for the Title IV—A portion of FIP; and

(b) The food stamp program for the food assistance portion of FIP.

(3) The department shall apply fair hearing rules in chapter 388-08 WAC to all decisions related to eligibility, participation, and work and training activities for the Title IV—A portion of FIP. The department shall follow the food stamp program for hearings related to the food assistance portion of FIP.

(4) The department shall designate those geographic areas where FIP is to be implemented.

(5) The department shall enroll eligible households residing in a designated FIP geographic area at application (for applications submitted after June 30, 1988) at the annual grant face-to-face eligibility review, and at such other times as designated by the department, except:

(a) An applicant who has received AFDC within ninety days prior to application shall not be converted to FIP. If eligible, the household shall be authorized AFDC;

(b) AFDC recipients shall, at the annual face-to-face review, have the option to enroll in FIP or remain on AFDC.

(6) FIP enrollees transferring from a FIP to a non-FIP geographic area shall have the option to retain their FIP status if there is a FIP CSO in the county to which they transferred. Such enrollees wishing to remain in FIP shall report to, have their eligibility maintained by and services provided by, the FIP CSO in the county to which they transferred.

(7) Prior to denial or termination of FIP benefits, the department shall determine eligibility for other financial assistance, medical assistance, and food stamps.

[Statutory Authority: Chapter 74.21 RCW. 88-18-024 (Order 2683), § 388-77-005, filed 8/30/88; 88-12-093 (Order 2630), § 388-77-005, filed 6/1/88.]

WAC 388-77-010 Definition. Unless the context clearly requires otherwise, the definitions in WAC 388-77-010 apply throughout chapter 388-77 WAC. When using the definition for child, parent, stepparent, etc., this can stand for either singular or plural. Other definitions applicable to FIP are contained in chapters 388-22 and 388-49 WAC.

(1) "Assessment" means both a FIP orientation and an evaluation of the enrollee's readiness to pursue employment, education, or training and other services available to help the enrollee to achieve self-sufficiency. Normally, the orientation and the evaluation will each take one appointment.

(2) "Benchmark standard" means the basic monthly level of cash benefits, established according to family size, which equals the state's payment standard under the aid to families with dependent children program, plus food cash assistance as determined in WAC 388-77-820.

(3) "Dependent" means spouse, minor children or stepchildren, full-time students eighteen years of age and under nineteen years of age who are 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.

(4) "Enrollee" means the head of household and/or family member of a family eligible to receive FIP cash assistance or other services under the family independence program.

(5) "Transitional benefits" means noncash benefits the enrollee is eligible to receive after eligibility for cash assistance no longer exists because of increased earnings.

(6) "Family independence program" means a demonstration project which remains within the AFDC system under Title IV of the federal Social Security Act and the Food Stamp Act.

(7) "Family independence program services" includes job readiness programs, job development, employment, work programs, training, education, family planning services, development of mentor programs, income and medical support, parenting education, child care, and training in family responsibility and family management skills, including appropriate financial counseling and training on management of finances and use of credit.

(8) "FIP cash assistance" means the IV-A payment for the grant, additional requirements, and incentive and/or the cash equivalent for food stamps.

(9) "FIP noncash benefits" means benefits, such as medical or child care.

(10) "Full-time employment" means working one hundred fifty or more hours per month.

(11) "Half-time employment" means working seventy-five or more hours, but less than one hundred fifty hours, per month.

(12) "Incapacity" for FIP means the existence of a physiological, emotional, and/or mental impairment, defect, illness, or loss which is supported by competent medical testimony and is of such a debilitating nature as to reduce substantially or eliminate the person's ability to support or care for his or her child or children.

(13) "Incentive benefit payments" means those additional benefits payable to enrollees due to their participation in education, training, work programs, or employment.

(14) "Job" means a regularly performed lawful activity which generates a cash benefit for the enrollee.

(15) "Overpayment" means FIP cash assistance including food assistance, and/or medical benefits, received by the FIP assistance unit in excess of the amount for which the unit was eligible. An overpayment includes:

(a) "Intentional overpayment" means an overpayment resulting from a willful or knowing intent of the enrollee to receive or retain benefits to which the enrollee is not entitled;

(b) "Unintentional overpayment" means an overpayment that is not attributed to the applicant's/enrollee's willful intent to defraud the department.

(16) "Qualifying parent" means the parent in a two-parent household who earned the greater amount of income in the twenty-four-month period immediately preceding the month in which the application for FIP assistance is filed.

(17) "Self-sufficiency plan" means a written agreement between the employment security department or the department and the enrollee that may include activities specifically undertaken for self-support, and other items outlined in the employability plan or social services plan.

(18) "Subsidized employment" means employment for which FIP has provided the employer the financial resources, in whole or in part, to compensate an enrollee for the performance of work.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-010, filed 6/1/88.]

WAC 388-77-015 Applications and assessment. Application requirements for the Title IV-A portion of FIP shall be the same as for AFDC in WAC 388-38-030 through 388-38-200 and the same as the food stamp program for FIP food assistance except:

(1) FIP enrollees shall be asked to voluntarily cooperate in the FIP assessment at application or at conversion to FIP;

(2) FIP applicants shall submit a written request for benefits; and

(3) FIP enrollees may receive services at a local office outside the geographic area in which he or she lives as provided in WAC 388-77-005(6).

[Statutory Authority: Chapter 74.21 RCW. 88-18-024 (Order 2683), § 388-77-015, filed 8/30/88; 88-12-093 (Order 2630), § 388-77-015, filed 6/1/88.]

WAC 388-77-045 Verification. (1) The department shall limit verification to:

- (a) Name,
- (b) Social Security number,
- (c) Alien status,
- (d) Income.

(2) Notwithstanding subsection (1) of this section, the department shall verify all other factors of basic eligibility when:

(a) Information contradicts or conflicts with other statements made by the applicant/enrollee; or

(b) The department receives information from a third-party source that contradicts or conflicts with other statements made by the applicant/enrollee; or

(c) Professional judgment would cause the worker to question the accuracy of the information.

(3) The department shall not require the applicant/enrollee to provide a specific type of verification if the information available is sufficient;

(4) The department shall request verification documents which are the most readily available if such documents would be sufficient to determine eligibility.

(5) Costs of necessary verification shall be paid by the department.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-045, filed 6/1/88.]

WAC 388-77-200 Family independence program (FIP)—Summary of Title IV-A eligibility conditions. The department shall grant FIP benefits on behalf of a needy child:

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

(a) FIP benefits may be granted to a pregnant woman in any trimester with no other children;

(b) FIP benefits shall continue through the month the eligible 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;

(3) Who is living in the home of a relative of specified degree, except for a temporary period, or who, as a result of judicial action, was removed from his or her

home and placed in foster care, and who meets the conditions specified in WAC 388-24-207;

(4) Who, if living with both parents when neither is incapacitated, meets the conditions in WAC 388-77-240;

(5) Who is a citizen or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States;

(6) Whose parent or stepparent has not transferred property contrary to law or WAC 388-24-457 through 388-24-465;

(7) Who is in financial need according to WAC 388-77-500;

(8) 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 when the child becomes nineteen years of age. The school or training requirement shall not apply to a parent eighteen years of age and under nineteen years of age.

(9) For persons to be included in the FIP assistance unit, see WAC 388-77-210.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-200, filed 6/1/88.]

WAC 388-77-210 Assistance unit. Assistance units for the Title IV-A portion of FIP shall be the same as for the AFDC program in WAC 388-24-050 except to include a pregnant woman with no other dependent children in the first or second trimester.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-210, filed 6/1/88.]

WAC 388-77-230 Family independence program--Incapacity criteria. (1) The department shall consider a child denied of parental support and care by reason of parental incapacity when he or she lives with two natural, adoptive, or stepparents when:

(a) One or both parents are incapacitated; and

(b) The incapacity is expected to last for a period of thirty days or more from the date of application or redetermination.

(2) The department shall deem an incapacity to exist when the impairment and the prognosis are supported by evidence from a qualified medical professional, including, but not limited to:

(a) A licensed physician;

(b) A licensed clinical psychologist;

(c) A certified registered nurse (RN) if within the area of certification;

(d) The chief of medical administration or his or her designee of the Veteran's Administration as authorized by federal law;

(e) A mental health professional designated by the local community mental health agency as defined in RCW 71.05.020; or

(f) A certified substance abuse counselor.

(3) The department shall:

(a) Consider the applicant/enrollee incapacitated when competent medical testimony confirms the existence of the incapacitating condition;

(b) 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 qualified medical professional, or other source of documentation;

(c) Request additional information when necessary;

(d) Confirm 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.

(4) The department shall consider an individual incapacitated if the impairment:

(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;

(c) Prevents the parent from working full time:

(i) At a job in which he or she has customarily engaged; and

(ii) On another job for which he or she is equipped by education, training, or experience; or

(iii) On a job which can be learned by on-the-job training.

(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.

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

(6) 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: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-230, filed 6/1/88.]

WAC 388-77-240 FIP--Eligibility for qualifying a parent. (1) A child residing with two parents, when neither is incapacitated, shall be eligible for FIP when the qualifying parent:

(a) Is not employed more than one hundred hours a month except for intermittent temporary jobs; and

(b) Has been unemployed for at least thirty days prior to the date FIP is authorized; and

(c) Has not refused a bona fide offer of employment or training for employment; or

(d) Has not voluntarily left a job without good cause during the thirty days prior to the date FIP is authorized; or

(e) Has not refused to apply for or accept unemployment compensation, if eligible.

(2) The qualifying parent is that parent earning the greater amount of income in the twenty-four-month period immediately preceding the month in which the application for FIP assistance is filed.

(a) The household shall designate the qualifying parent if both parents earned an identical amount of income, or had no earnings.

(b) The designated qualifying parent remains the qualifying parent for each consecutive month the family remains on assistance.

(3) The department shall consider the following conditions good cause for refusal of an offer of employment or refusal to continue employment:

(a) Physical, mental, or emotional inability of the qualifying parent to satisfactorily perform the work required;

(b) Inability of the qualifying parent to get to and from the job without undue cost or hardships to them;

(c) The nature of the work would be hazardous to the qualifying parent;

(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; or

(f) Adequate child care is not available.

(4) The child shall be residing with both parents except that one parent may be temporarily absent for up to ninety days to search for employment with the expectation of continuing to reside with the family.

(5) FIP shall not be denied or terminated solely because the qualifying parent works over one hundred hours while participating in:

(a) Institutional work experience training; or

(b) A public service employment and training program.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-240, filed 6/1/88.]

WAC 388-77-255 FIP--Employment and training requirements. The department shall ask all FIP enrollees to voluntarily cooperate in assessment activities with the following exceptions:

(1) An enrollee who is on FIP assistance for the first time and until he or she has been on FIP assistance for six months;

(2) A person under sixteen years of age or sixty-five years of age or older;

(3) A person sixteen years of age or over who is in high school;

(4) A person who is incapacitated, temporarily ill, or is needed at home to care for an impaired person; and

(5) A person who is in the third trimester of pregnancy.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-255, filed 6/1/88.]

WAC 388-77-270 Support. (1) FIP applicants/enrollees shall be subject to the provisions of chapters 388-11, 388-13, and 388-14 WAC to the same extent as

applicants/recipients of AFDC except as provided in subsection (2) of this section.

(2) All FIP grant and child care expenditures paid to or on behalf of a FIP enrollee, except medical, the cash value of food stamps, and child care expenditures provided under WAC 388-77-737 are covered by the assignment of support under WAC 388-14-200.

(3) An enrollee who fails to cooperate with the office of support enforcement without good cause, as provided for the AFDC program, shall be removed from the Title IV-A portion of the grant and a protective payee shall be established.

(a) An enrollee or enrollees not in the assistance unit, but in the household who has failed to cooperate shall have his or her gross income allocated to the assistance unit.

(b) Applicable incentives, even if attributable to the person who failed to cooperate, shall be provided to the household based on the number of persons remaining in the household.

[Statutory Authority: Chapter 74.21 RCW. 88-18-024 (Order 2683), § 388-77-270, filed 8/30/88; 88-12-093 (Order 2630), § 388-77-270, filed 6/1/88.]

WAC 388-77-285 Assistance to minors. (1) The department shall determine eligibility according to WAC 388-77-200 through 388-77-280 if a minor applies for assistance for himself or herself.

(2) Parental consent is not required if an unmarried pregnant minor is requesting medical care. The following applies:

(a) The decision to proceed with medical care rests solely with the minor; and

(b) Involvement and/or consultation with the parent in reaching this decision shall be a matter of individual case judgment.

(3) The department shall not establish the financial eligibility of a minor without determining the parent's ability and willingness to give financial support. See WAC 388-83-130 for responsibility for medical care.

(4) Parental contact is not required when the minor applicant:

(a) Is married; or

(b) Is in the military service; or

(c) Has been declared emancipated by the court of competent jurisdiction prior to applying for assistance; and

(d) Is applying for medical assistance related to pregnancy.

(5) The department shall inform the minor applicant there will be communication with the parent or parents during the period of eligibility determination.

(6) The department shall establish the assistance unit of the minor parent according to WAC 388-77-210 if a minor parent and the minor parent's child reside with the minor's parent.

(7) The department shall consider the income of such parent available to meet the needs of the minor parent as specified in WAC 388-77-210 if the minor parent's parent is not included in the assistance unit of the minor parent.

(8) The department shall treat the legal guardian's income as available to meet the needs of the minor parent if a minor parent's legal guardian has a court-ordered responsibility for the support of such minor parent.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-285, filed 6/1/88.]

WAC 388-77-320 Resources--Exempt. In addition to those exempted under aid to families with dependent children in WAC 388-28-005 through 388-28-474 and 388-28-575, the department shall exempt the following resources for FIP Title IV-A assistance:

- (1) The cash surrender value of life insurance;
- (2) The cash surrender value of burial plots and pre-paid funeral agreements;
- (3) Nonexempt real property as long as the enrollee is making a good faith effort to sell the property.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-320, filed 6/1/88.]

WAC 388-77-500 Income--Determination of need.

(1) An applicant is not eligible for FIP cash assistance if nonexempt gross monthly income less disregards, as specified in AFDC, exceeds the payment standard and authorized additional requirements for AFDC in effect at the time of application:

(a) The department shall not apply the one hundred eighty-five percent gross income test in WAC 388-28-484(7) to the income of FIP applicants; and

(b) For the purpose of subsection (1) of this section, an applicant shall not have been a recipient of AFDC or an enrollee of FIP for ninety days prior to application.

(2) For FIP enrollees, the AFDC one hundred eighty-five percent gross income test and the AFDC payment standard test shall not apply.

(3) Unless the household qualifies for a hold-harmless payment, an enrollee shall not be eligible for IV-A FIP cash assistance if nonexempt monthly income less disregards exceeds the totals of:

(a) The payment standard for AFDC for the appropriate household size;

(b) Applicable incentives; and

(c) Authorized additional requirements.

(4) An enrollee shall not be eligible for FIP cash assistance when nonexempt income less deductions exceeds the benchmark plus applicable incentives and authorized additional requirements unless the household qualifies for a hold-harmless payment. For the purpose of subsection (4) of this section, the food assistance amount used in the benchmark shall be calculated at eighty percent of the thrifty food plan.

(5) The department shall determine the exempt or nonexempt status of all income.

[Statutory Authority: Chapter 74.21 RCW. 88-18-024 (Order 2683), § 388-77-500, filed 8/30/88; 88-12-093 (Order 2630), § 388-77-500, filed 6/1/88.]

WAC 388-77-515 Income--Exempt. In addition to income exempted under the AFDC program in chapter

388-28 WAC, the department shall exempt the following income from FIP:

- (1) Higher education benefits;
- (2) Earned income tax credit (EIC);
- (3) The earnings of a child under eighteen years of age;
- (4) Retroactive FIP benefits;
- (5) Income tax refunds;
- (6) Loans, if there is a written agreement to repay;
- (7) Income in-kind; and
- (8) Gifts.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-515, filed 6/1/88.]

WAC 388-77-520 Income--Deductions. In computing income for FIP Title IV-A assistance, the only deduction the department shall allow is ten percent from gross earned income.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-520, filed 6/1/88.]

WAC 388-77-525 Income--Self-employment. Notwithstanding WAC 388-77-520, in addition to those self-employment expenses deducted for AFDC, the department shall deduct income used for capital expenditures which are included as part of a self-sufficiency plan.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-525, filed 6/1/88.]

WAC 388-77-530 Income--Nonrecurring lump sum payments. (1) For purposes of FIP food assistance, the department shall treat nonrecurring lump sums according to the food stamp program.

(2) For purposes of FIP Title IV-A cash assistance, the department shall treat nonrecurring lump sums as:

(a) Income in the month of receipt. If the income is less than one month's needs, the department shall budget against the payment month. If the income makes the household ineligible for FIP cash assistance, the department shall terminate assistance effective the first of the month the income was received; and

(b) A resource after the month of receipt.

[Statutory Authority: Chapter 74.21 RCW. 88-18-024 (Order 2683), § 388-77-530, filed 8/30/88.]

WAC 388-77-555 Earned income reporting. (1) The department shall send employed enrollees a form to report their gross earnings and hours worked. This section shall not apply to an employed child.

(2) Approved applicants who are employed shall begin to report their earnings and hours worked the month following the month of opening.

(3) Newly employed enrollees shall report earnings and hours worked in writing beginning the month following the month the department becomes aware of the earnings.

(4) The department shall:

(a) Issue advance and adequate notice of suspension and termination to an enrollee who fails to submit a

written report and verify earned income and hours worked by the tenth of the process month;

(b) Suspend FIP cash assistance if an enrollee fails to submit a written report and verify earned income and hours worked by the end of the process month;

(c) Terminate FIP assistance if an enrollee fails to submit a written report and verify earned income and hours worked by the end of the payment month. Assistance shall be terminated effective the end of the payment month; however, cash assistance shall not be provided for the payment month; and

(d) Reinstate assistance to the start of the payment month, suspend or terminate FIP assistance as appropriate when earned income and hours worked are reported and necessary verification is provided by the end of the payment month, and give advance and adequate notice of the action taken.

(5) Earned income reporting shall apply to both the Title IV-A and food assistance portions of FIP in place of mandatory monthly reporting.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-555, filed 6/1/88.]

WAC 388-77-600 Standards of assistance--Hold harmless. (1) The department shall ensure no applicant or enrollee of FIP receives less financial assistance than he or she would otherwise have been entitled to receive as a sum of the AFDC and food stamp programs under the rules in effect January 1, 1988, and as adjusted to reflect all increases in:

(a) The federal food stamp allotment and deductions; and

(b) The Washington state payment standard for AFDC.

(2) The department shall compare the amount the household would have received under the AFDC program (excluding the allowance for the child care) with the FIP IV-A payment. If the AFDC payment amount is greater, the department shall issue a supplement to bring the FIP IV-A payment up to the amount the household would have received on AFDC.

(3) Notwithstanding subsection (2) of this section, the department shall allow the AFDC child care deduction in the hold-harmless computation for the month of conversion to FIP and the month following.

[Statutory Authority: Chapter 74.21 RCW. 88-18-024 (Order 2683), § 388-77-600, filed 8/30/88; 88-12-093 (Order 2630), § 388-77-600, filed 6/1/88.]

WAC 388-77-605 Standards of assistance--Benchmark standard. The benchmark standard for FIP assistance units shall be equal to the sum of the applicable AFDC payment standard for households with shelter costs plus food cash assistance as determined in WAC 388-77-820.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-605, filed 6/1/88.]

WAC 388-77-610 Standards of assistance--Incentive standards. (1) The department shall provide enrollees who are teen parents in high school or enrollees who are employed with incentive benefits as follows:

(a) Five percent of the benchmark standard for pregnant or parenting teenage parents under twenty-two years of age who stay in:

(i) High school and progress toward graduation; and

(ii) Participate, when available, in parenting education approved by the office of the superintendent of public instruction or the department.

(b) Fifteen percent of the benchmark standard for enrollees working half time;

(c) Thirty-five percent of the benchmark standard for enrollees working full-time.

(2) The department shall provide other FIP enrollees participating in education or training programs approved by ESD or the department with incentive benefits equaling five percent of the benchmark standard.

(3) Self-employed enrollees shall be entitled to fifteen percent or thirty-five percent of the benchmark standard based on hours worked as computed by dividing the enrollee's net income by the federal minimum wage.

(4) Participation in job search skills development or job search activities shall not qualify an enrollee for an incentive under WAC 388-77-610.

(5) The department shall not allow more than one incentive per assistance unit. The incentive shall be allowed at the highest level for which the assistance unit qualifies.

(6) The department shall round incentive payments down to the nearest dollar.

(7) The department shall provide incentives for employment to correspond with the budgeting of income. Incentives for training shall be provided using prospective budgeting.

(8) For the purposes of the incentive computation, the food assistance amount used in the benchmark shall be calculated at eighty percent of the thrifty food plan. The department shall round the product of the calculation of the eighty percent of the thrifty food plan down to the nearest dollar.

[Statutory Authority: Chapter 74.21 RCW. 88-18-024 (Order 2683), § 388-77-610, filed 8/30/88; 88-12-093 (Order 2630), § 388-77-610, filed 6/1/88.]

WAC 388-77-615 Standards of assistance--Payment amounts. (1) To determine FIP Title IV-A cash assistance, the department shall deduct nonexempt income, less disregards, from the sum of the applicable AFDC payment standard, the incentive, and authorized additional requirements:

(a) The department shall not pay grants less than one dollar; and

(b) The department shall round the amount to be issued down to the nearest dollar.

(2) Payment amounts for enrollees, not in their own home, shall be as in WAC 388-29-125 through 388-29-280.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-615, filed 6/1/88.]

WAC 388-77-735 Suspension of FIP cash assistance. (1) The department shall suspend FIP cash assistance:

(a) When the enrollee does not submit a written report of earned income; or

(b) For one month when the enrollee's income exceeds one month's payment standard, but is less than the payment standard for two months.

(2) The department shall reinstate a suspended FIP cash assistance grant when the conditions that caused the enrollee to be suspended cease to exist.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-735, filed 6/1/88.]

WAC 388-77-737 FIP transitional benefits. The department shall extend FIP noncash benefits for a period of up to twelve months when an enrollee ceases to be income eligible for FIP cash assistance as a result of increased earnings.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-737, filed 6/1/88.]

WAC 388-77-810 Periodic review and redetermination of eligibility. The department shall:

(1) Conduct an annual face-to-face interview to re-determine FIP continued eligibility for the Title IV-A and food stamp assistance portions of FIP;

(2) Designate the forms to use during the periodic eligibility review;

(3) Require one set of completed forms from each assistance unit;

(4) Review each eligibility factor that is subject to change; and

(5) Assure the enrollee meets all the eligibility requirements of the program.

[Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-810, filed 6/1/88.]

WAC 388-77-820 Food assistance. The department shall determine eligibility and benefit amounts for food cash assistance according to the food stamp program in chapter 388-49 WAC, except:

(1) For enrollees, disregard the following additional types of income in determining the food stamp benefit amount:

(a) The FIP incentive and the value of child care provided under FIP;

(b) Higher education benefits;

(c) Earned income tax credit;

(d) Retroactive FIP benefits;

(e) The first fifty dollars of any child support payments received in the month;

(f) Earnings of a child under eighteen years of age; and

(g) Self-employment income used for capital expenditures which are included as part of a self-sufficiency plan.

(2) For enrollees, pay the food stamp cash equivalent as a grant;

(3) For enrollees, verify eligibility factors as in WAC 388-77-045;

(4) Consider households with all FIP members as categorically eligible for food stamp cash assistance;

(5) The household composition for food assistance purposes shall include only those persons in the FIP assistance unit as determined by WAC 388-77-210.

[Statutory Authority: Chapter 74.21 RCW. 88-18-025 (Order 2684), § 388-77-820, filed 8/30/88; 88-12-093 (Order 2630), § 388-77-820, filed 6/1/88.]

WAC 388-77-900 Overpayments. The department shall assess and recover overpayments of FIP benefits in the same manner and under the same authority as overpayments in prior programs. All grant, incentive, child care, food assistance, and medical overpayments provided under FIP shall be subject to recovery.

(1) FIP overpayments may be recovered from non-FIP grants.

(2) Non-FIP overpayments may be recovered from FIP grants.

(3) FIP food assistance overpayments may be recovered from only food stamps or FIP food assistance. For FIP food assistance, the department shall follow procedures for a:

(i) Food stamp overpayment; and

(ii) Fraud hearing.

(4) For ineligibility resulting from increased earned income, the department shall not establish an overpayment for the month in which the increase occurred if the increase was timely reported.

[Statutory Authority: Chapter 74.21 RCW. 88-18-024 (Order 2683), § 388-77-900, filed 8/30/88; 88-12-093 (Order 2630), § 388-77-900, filed 6/1/88.]

Chapter 388-78 WAC

SUPPORT SERVICES FOR ASSESSMENT AND EMPLOYMENT AND TRAINING PROGRAMS IN THE FAMILY INDEPENDENCE PROGRAM

WAC

388-78-005	General provisions.
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388-78-020	Self-sufficiency plan.
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388-78-120	Grievance procedure and administrative reviews and appeals.
388-78-205	FIP child care.
388-78-210	Standards for child care providers.
388-78-215	Payment standards for child care services.
388-78-220	Child day care co-payments.

WAC 388-78-005 General provisions. (1) The following rules are adopted under authority of chapter 74.21 RCW.

(2) All decisions related to eligibility, participation, and work and training activities are subject to fair hearing rules according to chapter 388-08 WAC.

[Statutory Authority: Chapter 74.21 RCW. 88-12-088 (Order 2628), § 388-78-005, filed 6/1/88.]

WAC 388-78-010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Assessment" means both a FIP orientation and an evaluation of the enrollee's readiness to pursue employment, education, or training and other services available to help the enrollee to achieve self-sufficiency. Normally, the orientation and the evaluation will each take one appointment.

(2) "Child care" means the selection and payment of appropriate day care resources to enable assessment and participation in the FIP self-sufficiency plan.

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

(4) "Enrollee" means the head of household and/or family member of a family eligible to receive financial assistance or other services under the family independence program.

(5) "Fair hearing" means an administrative proceeding under chapter 34.04 RCW by which the office of administrative hearings hears and decides the appeal of an enrollee from an action or decision of the department.

(6) "FIP" means the family independence program pursuant to chapter 74.21 RCW.

(7) "Incapacity" for FIP means the existence of a physiological, emotional, and/or mental impairment, defect, illness, or loss which is supported by competent medical testimony and is of such a debilitating nature as to reduce substantially or eliminate the person's ability to support or care for his or her child or children. Criteria for determining incapacity are listed in WAC 388-77-230.

(8) "Participation" means the active pursuit by a FIP enrollee of employment and training plans agreed to in the self-sufficiency plan.

(9) "Self-sufficiency plan" means a written plan agreed to and signed by a FIP enrollee and the department that is intended to prepare the enrollee for long-term unsubsidized employment and economic independence.

[Statutory Authority: Chapter 74.21 RCW. 88-12-088 (Order 2628), § 388-78-010, filed 6/1/88.]

WAC 388-78-015 Supportive social services. (1) The department shall provide supportive social services, within available funding, to an enrollee in the family independence program to enable his or her accomplishment of the self-sufficiency plan. These services may include, but are not limited to:

- (a) Child care;
- (b) Medical and dental assistance not otherwise available to a participant;
- (c) Parenting education;
- (d) Training in family responsibility and management skills;
- (e) Financial management counseling;
- (f) Family planning information and referral;
- (g) Mentor services; and
- (h) Personal counseling.

(2) The department shall refer enrollees to other departmental services and services of other agencies as judged necessary. These may include, but are not limited to:

- (a) Mental health services;

- (b) Vocational rehabilitation services;
- (c) Legal assistance;
- (d) Alcohol and substance abuse treatment resources;
- (e) Developmental disabilities services;
- (f) Displaced homemaker program services;
- (g) Child and adult protective services; and
- (h) Other community-based organization services.

(3) When the department of social and health services has approved funding to support an approved self-sufficiency plan, such funding shall continue, subject to annual review and available funding, for the duration of the enrollee's approved self-sufficiency plan.

[Statutory Authority: Chapter 74.21 RCW. 88-12-088 (Order 2628), § 388-78-015, filed 6/1/88.]

WAC 388-78-020 Self-sufficiency plan. (1) The department shall consult with employment security FIP staff, when requested, in the development of the self-sufficiency plan.

(2) The department shall provide social casework and referral services, when requested, to enable the enrollees to accomplish the self-sufficiency plan.

(3) The self-sufficiency plan is subject to the approval of the department of social and health services.

[Statutory Authority: Chapter 74.21 RCW. 88-12-088 (Order 2628), § 388-78-020, filed 6/1/88.]

WAC 388-78-100 FIP employment and training requirements. (1) The department shall require all FIP enrollees to participate in assessment activities with the following exceptions:

- (a) An enrollee who is on FIP assistance for the first time until the enrollee has been on FIP assistance for six months;
- (b) A person under 16 years of age or over 64 years of age;
- (c) A person over 16 years of age who is in high school;
- (d) A person who is incapacitated, temporarily ill, or is needed at home to care for an impaired person; and
- (e) A person who is in the third trimester of pregnancy.

(2) An enrollee exempt from mandatory assessment may volunteer for assessment.

(3) Enrollee participation beyond assessment in FIP employment and training programs is voluntary.

[Statutory Authority: Chapter 74.21 RCW. 88-12-088 (Order 2628), § 388-78-100, filed 6/1/88.]

WAC 388-78-120 Grievance procedure and administrative reviews and appeals. (1) An enrollee aggrieved by a decision of the department shall have the right to present a written grievance to the supervisor of the line worker.

(2) The supervisor shall make a decision on a grievance and notify the recipient in writing within 10 days of receipt of the grievance.

(3) The enrollee shall have the right to present the grievance in writing to the local office administrator if the enrollee is not satisfied with the decision of the supervisor.

(4) The local office administrator shall make a decision on a grievance and send the enrollee a written notice of the decision within 10 days of receipt of the grievance. This notice terminates the grievance procedure.

(5) The exercise of the right or the failure to exercise the right to pursue a grievance shall not in any way preclude or prejudice the exercise of any rights the enrollee may have under fair hearing, chapter 388-08 WAC.

(6) The department may choose to respond to the grievance by informing the enrollee that the department prefers to resolve the matter through the administrative or judicial review process if administrative or judicial review is pending on the same issue.

(7) An enrollee aggrieved by an action or decision of the department, including requiring or denying participation in a work, training, or education activity, has the right to request a fair hearing to be conducted by the office of administrative hearings in accordance with chapters 34.04 and 34.12 RCW. The aggrieved person is entitled to all fair hearing rights provided under RCW 74.08.070 and to rights of judicial review therefrom as provided in RCW 74.08.080.

[Statutory Authority: Chapter 74.21 RCW. 88-12-088 (Order 2628), § 388-78-120, filed 6/1/88.]

WAC 388-78-205 FIP child care. The department shall:

(1) Authorize and make child care payments necessary to enable an enrollee to work and to allow teenage parents to remain in school.

(2) Provide information to an enrollee about:

(a) Selection of child care providers;

(b) Community child care resources; and

(c) Child care subsidies available through the department.

(3) Subject to annual review, and within available funds, make child care payments as a part of an approved self-sufficiency plan for job search, training, and education until the enrollee is no longer eligible for FIP benefits.

[Statutory Authority: Chapter 74.21 RCW. 88-12-088 (Order 2628), § 388-78-205, filed 6/1/88.]

WAC 388-78-210 Standards for child care providers. (1) The department shall pay only child care providers who are in compliance with statutory licensing requirements.

(2) The department shall pay a school-operated child care program that demonstrates compliance with state child day care minimum licensing standards.

(3) The department shall pay an in-home child care provider only after:

(a) The department has provided the enrollee with information about the criteria for selecting an in-home child care provider. The criteria are that the provider be:

(i) Eighteen years of age or older;

(ii) Free of communicable disease;

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

(iv) Able to work with children without using physical punishment or psychological abuse; and

(v) Prompt and regular in-job attendance.

(b) A release is obtained for the department to initiate a criminal history/arrest record check.

[Statutory Authority: Chapter 74.21 RCW. 88-12-088 (Order 2628), § 388-78-210, filed 6/1/88.]

WAC 388-78-215 Payment standards for child care services. (1) The department shall develop a payment system which includes:

(a) A rate that reflects the higher costs associated with providing care for infants, toddlers, and children with special needs;

(b) A rate that reflects geographic variations in the cost of care; and

(c) A process for periodic review of a rate. The process shall include:

(i) A survey of a prevailing child care rate; and

(ii) Creation of a rate advisory committee which shall make recommendations to the FIP executive committee.

(2) Payment for child care shall not exceed the maximum rate adopted by the FIP executive committee.

(3) The department shall not pay the father, mother, brother, sister, stepfather, stepmother, stepbrother, or stepsister of the child for child care. Care by other relatives is considered in-home care whether provided in the relative's home or in the child's home.

(4) When a relative provides child care services as a licensed child care provider, the department shall pay the applicable out-of-home rate for the type of care.

(5) The department shall pay the enrollee when the enrollee selects in-home care. The enrollee shall pay the in-home caregiver the amounts authorized in the approved child care plan.

(6) When the anticipated payments to an in-home caregiver are fifty dollars or more in a calendar quarter, the department shall add the employer's share of the FICA tax to the amount authorized.

(7) The department shall issue an authorizing voucher to the parent and pay the provider, based on the terms of the voucher, when the enrollee selects out-of-home care.

[Statutory Authority: Chapter 74.21 RCW. 88-12-088 (Order 2628), § 388-78-215, filed 6/1/88.]

WAC 388-78-220 Child day care co-payments. The department shall provide child care subsidies to an enrollee who has terminated from FIP cash assistance due to increased earnings, subject to the following limitations:

(1) The department shall provide services on a co-payment basis;

(2) Subsidization of child care services shall not extend more than 12 months following termination of cash assistance;

(3) An enrollee shall participate in the cost of care not to exceed 25 percent of the cost of care or 25 percent of the amount by which the family's income exceeds 135 percent of the benchmark, whichever is the lesser amount; and

(4) An enrollee shall pay the co-payment share of the child care costs directly to the child care provider.

[Statutory Authority: Chapter 74.21 RCW. 88-12-088 (Order 2628), § 388-78-220, filed 6/1/88.]

Chapter 388-81 WAC

MEDICAL CARE--ADMINISTRATION--GENERAL

WAC

388-81-047 Recovery from estates.

WAC 388-81-047 Recovery from estates. (1) The department shall recover the cost of medical care provided to a recipient, who was sixty-five years old or older, upon the recipient's death, except:

- (a) Where there is a surviving spouse; or
- (b) Where there is a surviving child who is:
 - (i) Under twenty-one years of age, or
 - (ii) Blind or disabled as defined in chapter 388-92 WAC; or

(c) Where there are surviving children, other than defined in (b) of this subsection, recovery shall not include:

- (i) The first fifty thousand dollars of the estate value at the time of death, and
- (ii) Sixty-five percent of the remainder.

(2) The department shall assert and enforce a claim against the estate of the deceased recipient for the debt in subsection (1) of this section, in accordance with chapter 11.40 RCW.

(3) The department shall file a lien against any real property which was in the name of the recipient just prior to death.

(a) The lien shall be filed with the county auditor of the county in which the property is located, and

(b) The lien shall be deemed effective as of the date of the recipient's death, and

(c) Recovery shall be upon the next sale or transfer of the property.

(4) If a surviving spouse or child, as defined in subsection (1)(b) of this section, is discovered or contacts the department prior to recovery, the department shall release the lien.

(5) The term "child" shall include both natural and adopted children.

(6) The value of the estate shall be the valuation listed in current property tax records.

[Statutory Authority: RCW 74.08.090. 88-03-050 (Order 2585), § 388-81-047, filed 1/19/88.]

Chapter 388-82 WAC

MEDICAL CARE--PROGRAM DESCRIBED--LIMITATIONS

WAC

388-82-008 Family independence program (FIP).
 388-82-010 Persons eligible for medical assistance.
 388-82-115 Categorically needy medical assistance eligibility.

WAC 388-82-008 Family independence program (FIP). All FIP Medicaid and FIP-related Medicaid, except FIP transition benefits, shall be limited to designated FIP geographic areas. The FIP geographic areas shall be established under WAC 388-77-005.

[Statutory Authority: RCW 74.08.090. 88-17-062 (Order 2672), § 388-82-008, filed 8/17/88.]

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 Medicaid; 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 Medicaid, the department shall increase the number in the household by one before comparing the pregnant woman's income to the AFDC payment standard.

(f) Family independence program.

(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. 88-09-037 (Order 2620), § 388-82-010, filed 4/15/88; 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 Categorically needy medical assistance eligibility. The department shall classify as eligible for categorically needy medical assistance:

- (1) A client who:
 - (a) In August 1972, received:
 - (i) Old age assistance (OAA);
 - (ii) Aid to blind (AB);
 - (iii) Aid to families with dependent children (AFDC);
 - or
 - (iv) Aid to the permanently and totally disabled (APTD); and
 - (b) Received retirement, survivors, and disability insurance (RSDI) benefits; and
 - (c) Is ineligible for OAA, AB, AFDC, or APTD solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.
- (2) A client who:
 - (a) Was entitled to RSDI benefits in August 1972; and
 - (b) Is ineligible for AFDC, family independence program (FIP), or supplemental security income (SSI) solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.
- (3) A family unit 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; and
 - (b) A member of such family continues to be employed; and
 - (c) The family is otherwise eligible for AFDC; and
 - (d) The department shall consider earned income tax credits (EITC) as income for purposes of this subsection.
- (4) A current recipient of Title II, Social Security Administration (SSA) benefits who:
 - (a) Was a concurrent recipient of Title II and SSI benefits; and
 - (b) Is ineligible for SSI benefits and/or state supplementary payments (SSP); and
 - (c) Would be eligible for SSI benefits if the following are 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) A recipient of SSI, after January 1, 1981, who continues to be eligible for medical assistance (MA) under P.L. 96-265 and 99-643.
- (6) A pregnant woman, with no other eligible children, who is ineligible for AFDC cash assistance solely because she has not reached the sixth month of pregnancy.
- (7) A client who is denied AFDC or FIP cash payments solely because of a departmental recovery of an overpayment.

(8) A child under seven years of age, who is born after September 30, 1983, and who meets the income and resource requirements of AFDC or FIP financial assistance.

(9) A family unit shall remain categorically eligible for medical assistance for nine calendar months beginning with the month of ineligibility for AFDC, when terminated from AFDC financial assistance solely because of:

(a) The loss of the thirty dollars plus one-third exemption; or

(b) The thirty-dollar income exemption.

(10) A child, 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) A family unit ineligible for AFDC or FIP 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 ineligibility; provided the family unit:

(a) Received AFDC or FIP financial assistance in at least three of the six months immediately preceding the month of ineligibility; and

(b) Became ineligible for AFDC or FIP on or after August 16, 1984, and before October 1, 1989.

(12) A pregnant woman who does not meet the deprivation requirements of AFDC or FIP financial assistance if:

(a) She would meet the AFDC or FIP financial assistance income requirements if the number in the household is increased by one before being compared to the payment standard; and

(b) She meets the AFDC or FIP financial assistance resource requirements.

(13) An alien denied AFDC, FIP, or SSI cash assistance solely because of deeming of income of the alien's sponsors.

(14) A current disabled client receiving widow's or widower's benefits under section 202 (e) or (f) of the Social Security Act if the disabled client:

(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 the client; 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; and

(f) Is fifty through fifty-nine years of age; and

(g) Filed an application for Medicaid coverage before July 1, 1988.

(15) Effective July 1, 1988, a disabled or blind client receiving Title II disabled widow/widower benefits (DWB) under section 202(e) or (f) of the SSA, if the client:

(a) Is sixty through sixty-four years of age; and

(b) Is not eligible for the hospital Medicare (Part A of Title XVIII) benefits; and

(c) Received SSI/SSP prior to sixty years of age; and

(d) Became ineligible for SSI/SSP due to receipt of or increase in DWB; and

(e) Would be eligible for SSI/SSP if the amount of the DWB or increase under section 202 (e) or (f) of the SSA, and any subsequent cost-of-living increases provided under section 215(i) of the act were disregarded.

(16) A family unit suspended from FIP financial assistance because of increased earned income. This period of eligibility shall not exceed twelve months as determined by WAC 388-77-737.

(17) A family unit ineligible for FIP solely because of increased hours of employment shall remain categorically eligible for medical assistance for four calendar months beginning with the month of ineligibility provided that:

(a) The family unit received FIP in at least three of the six months immediately preceding the month of ineligibility;

(b) A member of such family continues to be employed;

(c) The family unit is otherwise eligible for FIP.

(18) A disabled or blind client receiving Title II disabled adult childhood (DAC) benefits under section 202(d) of the SSA if the client:

(a) Has attained eighteen years of age; and

(b) Lost SSI/SSP on or after July 1, 1988, due to receipt of or increase in DAC benefits; and

(c) Would be eligible for SSI/SSP if the amount of the DAC benefits or increase under section 202(d) of the SSA and any subsequent cost-of-living increases provided under section 215(i) of the SSA act were disregarded.

[Statutory Authority: RCW 74.08.090. 88-24-024 (Order 2734), § 388-82-115, filed 12/2/88; 88-17-063 (Order 2673), § 388-82-115, filed 8/17/88; 88-09-037 (Order 2620), § 388-82-115, filed 4/15/88; 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.]

Chapter 388-83 WAC

MEDICAL CARE--ELIGIBILITY

WAC

388-83-006 Medical care services.

- 388-83-015 Citizenship and alienage.
- 388-83-032 Needy infants, children and pregnant women.
- 388-83-036 Monthly maintenance standard—Client not in own home.
- 388-83-130 Eligibility—Special situations.

WAC 388-83-006 Medical care services. (1) 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:

(a) Continuing general assistance, or

(b) Alcohol and drug addiction services provided under sections 1 through 8 of the Alcoholism and Drug Addiction Treatment and Support Act of 1987 (chapter 406, Laws of 1987).

(2) The recipient shall be responsible for furnishing the provider of medical services with a medical identification coupon or other adequate verification of eligibility provided by the department.

[Statutory Authority: 1987 c 406. 87-19-091 (Order 2539), § 388-83-006, filed 9/17/87. 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 388-83-015 Citizenship and alienage. (1) 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.)

(2) An alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law shall be eligible for medicaid only if:

(a) Medical care and services are necessary for treatment of an emergency medical condition of the alien; and

(b) Such alien meets the eligibility requirements of chapters 388-82, 388-83, 388-92, 388-95 and 388-99 WAC;

(c) For purposes of this subsection, the term emergency medical condition means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

(i) Placing the patient's health in serious jeopardy;

(ii) Serious impairment to bodily functions; or

(iii) Serious dysfunction of any bodily organ or part.

[Statutory Authority: RCW 74.08.090. 87-06-005 (Order 2472), § 388-83-015, filed 2/19/87; 81-10-014 (Order 1646), § 388-83-015, filed 4/27/81; Order 967, § 388-83-015, filed 8/29/74; Order 264 (part), § 388-83-015, filed 11/24/67.]

WAC 388-83-032 Needy infants, children and pregnant women. (1) The department shall find the following groups eligible for Medicaid as categorically needy, if they meet the income and resource requirements of this section:

- (a) Effective July 1, 1987:
 - (i) Women during pregnancy and during the sixty-day period beginning on the last day of pregnancy, and
 - (ii) Infants under one year of age.
- (b) Effective October 1, 1988, children under three years of age.
- (2) Income eligibility:
 - (a) Total family income shall not exceed ninety percent of the poverty income guidelines as published and updated by the secretary of health and human services. Ninety percent of the 1988 poverty income guidelines is:

Family Size	Monthly
(i) One	\$ 433.00
(ii) Two	\$ 580.00
(iii) Three	\$ 727.00
(iv) Four	\$ 874.00
(v) Five	\$ 1,021.00
(vi) Six	\$ 1,168.00
(vii) Seven	\$ 1,315.00
(viii) Eight	\$ 1,462.00

(ix) For family units with more than eight members add \$147.00 to the monthly income for each additional member.

- (b) The department shall determine family income:
 - (i) According to AFDC methodology except for the exclusions in WAC 388-83-130 (5) and (6), and
 - (ii) Shall not use the costs incurred for medical care or for any other type of remedial care to reduce the family income.
- (3) Resource eligibility:
 - (a) The total value of the family's countable resources shall not exceed five thousand dollars.
 - (b) Countable resources are limited to cash, savings accounts, checking accounts, and certificates of deposit.
 - (c) The department shall not consider other resources in determining the eligibility of groups included in subsection (1) of this section.
 - (4) Changes in income or living situations shall not affect eligibility for medical assistance, during pregnancy or during the sixty-day period beginning on the last day of pregnancy:
 - (a) Once a pregnant woman is determined eligible under this section, or
 - (b) If at any time while eligible for and receiving medical assistance meets the eligibility requirements of this section.
 - (5) An infant or child who attains the maximum age as described in subsection (1)(a) or (b) of this section shall continue to be eligible until the later of:
 - (a) The end of the month in which the infant or child attains the maximum age, or
 - (b) The end of the month in which the infant or child receives inpatient services if:
 - (i) The infant or child is receiving inpatient services on the last day of the month in which the child attains the maximum age, and
 - (ii) The stay for inpatient services continues into the following month(s), and

(iii) Who, but for attaining such age, would be eligible for assistance under this section.

[Statutory Authority: RCW 74.08.090. 88-23-084 (Order 2730), § 388-83-032, filed 11/18/88; 88-19-033 (Order 2695), § 388-83-032, filed 9/12/88; 88-11-063 (Order 2626), § 388-83-032, filed 5/17/88; 87-17-042 (Order 2521), § 388-83-032, filed 8/17/87.]

WAC 388-83-036 Monthly maintenance standard--Client not in own home. (1) The monthly standard for a SSI/SSP related client 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 shall not exceed three hundred percent of the current SSI federal benefit level.

(2) The AFDC or FIP 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 SSI/SSP related person with income, all earned and unearned exemptions allowed by SSI may be retained for personal needs. The GA-U client is subject to GA-U income and resource standards.

(4) If income available to the client is less than the CPI standard, the department shall authorize a state payment to the client to meet his or her personal needs.

(5) The department shall make payment 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. 88-17-062 (Order 2672), § 388-83-036, filed 8/17/88; 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) The department shall consider parent's income available whether or not actually contributed, when determining eligibility of a person under eighteen years of age residing in the same family unit with parents.

(2) The department shall not allow the AFDC earned income exemption of thirty dollars plus one-third of remainder to clients initially applying solely for medical assistance.

(3) The department shall allow the thirty dollars plus one-third disregard for families applying for medical assistance who received AFDC or FIP assistance in any of the four preceding months. After receiving the thirty dollars plus one-third income disregard for a maximum of four consecutive months, the client is not eligible for the disregard until the client has been off assistance for twelve consecutive months.

(4) AFDC or FIP children sixteen or seventeen years of age terminated from AFDC or FIP cash assistance solely because they have ceased to attend school and have refused to register for WIN are eligible for Medicaid on the same basis as a dependent child.

(5) For family units determined ineligible for AFDC or FIP assistance solely due to the requirements of WAC 388-24-050 or 388-77-210 that certain parents and siblings be included in the assistance unit, at the applicant's option, such individuals and their income

may be excluded from the assistance unit when determining eligibility of the remaining assistance unit members for categorically needy medical assistance.

(6) For family units determined ineligible for AFDC or FIP financial assistance solely due to the requirements of WAC 388-28-500(4) or 388-77-285 that income of the nonapplying parents of a minor parent be considered 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. 88-17-062 (Order 2672), § 388-83-130, filed 8/17/88; 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.]

Chapter 388-84 WAC

MEDICAL CARE--APPLICATION

WAC

388-84-105 Medical assistance.
388-84-120 Effective date of eligibility for medical care services.

WAC 388-84-105 Medical assistance. (1) The department shall accept applications for medical assistance or the limited casualty program without delay.

(a) The department shall provide clients with:

- (i) An explanation of the Civil Rights Act;
- (ii) Fair hearing information;
- (iii) Information on early and periodic screening, diagnosis, and treatment (EPSDT), when appropriate;
- (iv) Information on family planning, when appropriate.

(b) The application shall be in writing; a verbal request is not an application.

(c) A relative or interested person may complete the application if the client dies.

(2) The department shall find clients who receive cash assistance under AFDC, FIP, SSI, or state supplement eligible for medical assistance without a separate application.

(3) A spouse ineligible for SSI benefits solely because of the level of the spouse's income shall 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 the resident's area of the state through either an individual or agency acting in the resident's behalf.

[Statutory Authority: RCW 74.08.090. 88-17-062 (Order 2672), § 388-84-105, filed 8/17/88; 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 388-84-120 Effective date of eligibility for medical care services. (1) Eligibility for medical care services shall commence with the date of certification for:

- (a) General assistance, or

(b) Alcohol and drug addiction services provided under sections 1 through 8 of the Alcoholism and Drug Addiction Treatment and Support Act of 1987 (chapter 406, Laws of 1987).

(2) The department shall not retroactively certify for medical care received prior to the initial date of eligibility under subsection (1) of this section.

(3) Termination of medical care services occurs with termination of:

(a) The general assistance grant, or

(b) Alcohol and drug addiction services provided under sections 1 through 8 of the Alcoholism and Drug Addiction Treatment and Support Act of 1987 (chapter 406, Laws of 1987).

[Statutory Authority: 1987 c 406. 87-19-091 (Order 2539), § 388-84-120, filed 9/17/87. 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.

WAC 388-85-105 Certification of eligibility. The department shall continue eligibility for medical assistance until the client is determined ineligible for cash assistance.

(1) The department shall automatically redetermine eligibility for other medical assistance programs prior to termination of medical assistance including Medicaid, the limited casualty program, or medical care services.

(a) If additional information is necessary to redetermine eligibility, the department shall give the client ten days' notice and an opportunity to provide such information.

(b) The department shall give the client 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 client's eligibility in conformity with the requirements of this section, the client shall remain eligible for categorically needy medical benefits.

(2) When eligibility for AFDC cash assistance is terminated:

(a) Due to increased income or increased hours from employment, medical assistance shall continue for four calendar months beginning with month of ineligibility;

(b) Due to reaching state legal age of majority, the department shall automatically redetermine eligibility for medical assistance under another program;

(c) For lack of cooperation in WIN or work registration or for lack of school attendance which are not eligibility factors for medical assistance, the eligibility for medical assistance shall continue;

(d) 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;

(e) Due to the termination of pregnancy, medical assistance shall continue for two calendar months following the month of pregnancy termination.

(3) When eligibility for FIP cash assistance is terminated:

(a) Due to increased earnings, medical assistance shall continue for up to twelve calendar months beginning with the month of ineligibility;

(b) Due to an increase in hours from employment, medical assistance shall continue for up to four calendar months beginning with the month of ineligibility;

(c) Due to reaching state legal age of majority, the department shall automatically redetermine eligibility for medical assistance under another program;

(d) Due to termination of pregnancy, medical assistance shall continue for two calendar months following the month of pregnancy termination.

(4) The department shall redetermine eligibility for medical assistance the same as for the related cash assistance program:

(a) For clients under eighteen years of age not related to SSI, eligibility shall be redetermined every six months using AFDC or FIP financial criteria;

(b) For clients in medical institutions, eligibility shall be redetermined every twelve months.

(5) The client shall report to the CSO, within twenty days, any change in circumstances relating to eligibility.

(6) For any change of eligibility, the department shall use the same notification procedures as for cash assistance.

[Statutory Authority: RCW 74.08.090, 88-17-062 (Order 2672), § 388-85-105, filed 8/17/88; 88-01-044 (Order 2569), § 388-85-105, filed 12/11/87; 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.]

Chapter 388-86 WAC

MEDICAL CARE--SERVICES PROVIDED

WAC

388-86-005	Services available to recipients of categorical needy medical assistance.
388-86-009	Voluntary prepaid health plans.
388-86-00901	Kitsap Physicians Service—Sound Care Plan.
388-86-017	Case management services.
388-86-020	Dental services.
388-86-021	Dentures.
388-86-030	Eyeglasses and examinations.
388-86-040	Hearing aids.
388-86-050	Inpatient hospital care.
388-86-051	Selective contracting program.
388-86-071	Private duty nursing services.
388-86-075	Outpatient and emergency care.
388-86-085	Transportation (other than ambulance).
388-86-086	Ambulance services.
388-86-090	Physical therapy.
388-86-095	Physicians' services.
388-86-09601	Podiatric services.
388-86-098	Speech therapy services.
388-86-120	Medical care services.

WAC 388-86-005 Services available to recipients of categorical needy medical assistance. (1) The department shall provide the following Title XIX mandatory services:

(a) Early and periodic screening diagnosis and treatment services to eligible individuals under twenty-one years of age;

(b) Family planning services;

(c) Home health agency services;

(d) Inpatient and outpatient hospital care;

(e) Other laboratory and x-ray services;

(f) Skilled nursing home care;

(g) Certified registered nurse practitioner services;

(h) Physicians' services in the office or away from the office as needed for necessary and essential medical care.

(2) The department shall provide the following Title XIX optional services:

(a) Anesthetization services;

(b) Blood;

(c) Chiropractic services;

(d) Drugs and pharmaceutical supplies;

(e) Eyeglasses and examination;

(f) Hearing aids and examinations;

(g) Nurse midwife services;

(h) Oxygen;

(i) Physical therapy services;

(j) Private duty nursing services;

(k) Rural health clinic services;

(l) Surgical appliances;

(m) Prosthetic devices and certain other aids to mobility;

(n) Dental services.

(3) Organ transplants shall be limited to the heart, kidney, liver, and bone marrow.

(4) Treatment, dialysis, equipment and supplies for acute and chronic nonfunctioning kidneys shall be provided in the home, hospital and kidney center. See WAC 388-86-050(5).

(5) Treatment to detoxify narcotic addiction cases in a hospital or on an outpatient basis shall not be provided as a part of the medical assistance program. The department shall provide treatment for concurrent diseases and complications.

(6) Detoxification of an acute alcoholic condition shall be provided only in a certified detoxification center or in a general hospital with certified detoxification facilities.

(7) The department shall approve requested services:

(a) That are listed in this section; and

(b) Where evidence is obtainable to establish medical necessity, as defined in WAC 388-80-005, 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 shall be denied by the department if the requested service:

(a) Is not medically necessary as defined in WAC 388-80-005; or

(b) 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:

(a) Approve or deny all requests for medical services within fifteen days of the receipt of the request; or

(b) 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:

(i) Is not returned within thirty days of the date it was returned to the provider, then the original request shall be approved or denied.

(ii) 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. The notice shall state:

(a) The specific reasons for the department's conclusion to deny the requested service.

(b) 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.

(c) The recipient may be represented at the hearing by legal counsel or other representative.

(d) That upon request, the CSO shall furnish the recipient the name and address of the nearest legal services office.

(e) 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.

(11) For services available under:

(a) The limited casualty program—medically needy (see chapter 388-99 WAC); and

(b) The limited casualty program—medically indigent (see chapter 388-100 WAC).

(12) The department may require a second opinion and/or consultation prior to the approval of any elective surgical procedure.

(13) The department shall designate those surgical procedures which:

(a) Can be performed in other than a hospital in-patient setting; and

(b) Require prior approval by the area medical unit for a hospital admission.

(14) The department shall assure the availability [availability] of necessary transportation to and from covered title XIX medical services.

[Statutory Authority: RCW 74.08.090. 88-06-083 (Order 2600), § 388-86-005, filed 3/2/88. Statutory Authority: 1987 1st ex.s. c 7. 88-02-034 (Order 2580), § 388-86-005, filed 12/31/87. Statutory Authority: RCW 74.08.090. 87-12-050 (Order 2495), § 388-86-005, filed 6/1/87; 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 388-86-009 Voluntary prepaid health plans.

(1) The department shall enter into agreements with prepaid health plans.

(2) Enrollment in such plans is voluntary and shall limit enrollees to the providers and services covered under these plans, except for:

(a) Services not included in the agreement; or

(b) Service delivery arrangements otherwise approved by the department.

(3) Primary care physician (PCP):

(a) Enrollees shall have a choice among the plan's PCPs when enrolling in the plan;

(b) Enrollees shall have the right to change their PCP:

(i) One time during a twelve-month period for any reason; and

(ii) For any subsequent change during the twelve-month period, the enrollee's rights shall be the same as the rights of all non-DSHS enrollees.

(4) Timely provision of services. Enrollees shall have the right to receive medically necessary care without unreasonable delay.

(5) Emergencies:

(a) For purposes of this section, the term emergency medical condition means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

(i) Placing the enrollee's health in serious jeopardy;

(ii) Serious impairment to bodily functions; or

(iii) Serious dysfunction of any bodily organ or part.

(b) The plan shall determine if an emergency exists and be financially responsible for the cost of that determination;

(c) When an emergency exists, an enrollee shall not be financially responsible for any services rendered;

(d) When an emergency does not exist, and the plan does not authorize further services, an enrollee shall be financially responsible for any further services received only if the enrollee's signed consent is obtained prior to the receipt of the services.

(6) Physician referral. When medically necessary, the PCP shall make a prompt referral to another plan physician or specialist.

(7) Second opinions. An enrollee shall have the right to a second opinion by another PCP or specialist within the plan:

(a) When an enrollee wants more information as to the medical necessity of medical treatment recommended by the PCP; or

(b) If an enrollee believes the plan is not authorizing medically necessary care.

(8) Quality assurance:

(a) Each plan shall have a quality assurance program;

(b) A medical director appointed by the plan shall be responsible for the plan's quality assurance program;

(c) The plan shall furnish the division of medical assistance with a copy of and the plan's response to all written grievances; and

(d) The department shall arrange on an annual basis for an independent external review of the quality of services provided or arranged by the plan.

(9) Termination:

(a) The department shall terminate enrollment of an enrollee in the prepaid health plan if an enrollee becomes ineligible for enrollment due to a change in circumstances;

(b) An enrollee shall have the right to request termination of enrollment in the plan without cause during any month of enrollment; and

(c) An enrollee shall receive covered services from the plan through the end of the month in which the termination is effective.

(10) Involuntary termination:

(a) The department shall terminate enrollment of an enrollee in the prepaid health plan if the plan establishes the enrollee's behavior:

(i) Is inconsistent with the plan's rules and regulations, such as intentional misconduct; or

(ii) Is such that it becomes medically nonfeasible to safely or prudently provide medical services.

(b) The plan shall not request involuntary termination of an enrollee solely due to an adverse change in the enrollee's health;

(c) The termination in subdivision (a) of this subsection shall not be effective unless:

(i) The plan sends a written request for an involuntary termination to the department; and

(ii) The department approves the termination.

(d) The department shall approve or disapprove the request for termination within thirty days of receipt of such request for termination;

(e) The department shall notify the enrollee ten days in advance of the effective date of disenrollment for any approved termination.

(11) Fair hearings. An enrollee 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 subsection (b) of this section, an enrollee shall exhaust the plan's grievance procedure prior to requesting a fair hearing. The plan's grievance procedure shall provide for an expeditious resolution by plan personnel with authority to require corrective action. There shall be a written decision stating the basis for the decision within thirty days of receipt of the written grievance. An enrollee 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 written grievance.

(b) In cases where the plan denies medical services an enrollee believes are urgently needed, an enrollee shall only be required to provide a written grievance to the plan prior to or at the time of requesting a fair hearing.

[Statutory Authority: RCW 74.08.090, 88-12-089 (Order 2627), § 388-86-009, filed 6/1/88; 87-06-001 (Order 2468), § 388-86-009, filed 2/19/87; 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: The following have the right to be exempt from enrollment in the plan or to disenroll from the plan:

(a) Clients for whom 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:

(i) Whether distance or transportation problems make it unreasonably difficult for the recipient to obtain services; or

(ii) Whether the absence of translators or of services accessible to disabled persons makes it unreasonably difficult for the recipient to obtain services.

(b) Indians eligible to receive health services through the Indian Health Service Clinics.

(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.

(6) Primary care physicians (PCP):

(a) All clients shall have an opportunity to choose a PCP from current plan providers. The plan shall assign a PCP to those clients who do not choose an enrolled provider.

(b) A client shall have the right to change their PCP:

(i) One time during a twelve-month period for any reason,

(ii) For any subsequent change during the twelve-month period the client shall first show good cause.

(c) When requesting a change in their PCP the client shall notify the plan of:

(i) The desired change including the name of the new PCP, and

(ii) The reason for the desired change.

(7) Second opinions: The client shall have the right to a second opinion by another participating physician or specialist:

(a) When the client needs more information as to the medical necessity of medical treatment recommended by the PCP, or

(b) If the client believes that the PCP is not authorizing medically necessary care.

(8) Physician referral: When medically necessary, the PCP shall make a prompt referral to another participating physician or specialist.

(9) Program administration:

(a) A medical director appointed by the plan shall:

(i) Be responsible for the plan's quality assurance program and shall review all plan grievances,

(ii) Furnish the division of medical assistance with a copy of and the plan's response to all written grievances.

(b) An independent, external review of the quality of services provided or arranged by the plan for clients shall be conducted on an annual basis.

[Statutory Authority: RCW 74.08.090, 87-22-093 (Order 2554), § 388-86-00901, filed 11/4/87; 87-06-004 (Order 2471), § 388-86-00901, filed 2/19/87; 86-21-120 (Order 2437), § 388-86-00901, filed 10/21/86.]

WAC 388-86-017 Case management services. (1) The department shall provide case management services to medical assistance recipients:

(a) By contract with providers of case management services.

(b) Limited to target groups of clients as determined by the contract.

(c) Limited to services as determined by the contract.

(2) Case management services are services which will assist clients in gaining access to needed medical, social, educational, and other services.

[Statutory Authority: RCW 74.08.090, 87-22-094 (Order 2555), § 388-86-017, filed 11/4/87.]

WAC 388-86-020 Dental services. (1) The department shall provide the following dental services to recipients of medical assistance:

(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 which 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) Limited to recipients of EPSDT,

(ii) Prior approval is required,

(iii) Treatment is limited to medically necessary services as defined in chapter 388-80 WAC.

(2) The following additional requirements shall apply to recipients residing in a nursing home, congregate care facility or group home:

(i) Referral by the attending physician,

(ii) Bedside dental care shall be approved only when sufficient justification exists to show transporting the patient is inappropriate, and

(iii) Treatment of a nonemergent condition in the facility requires prior approval.

(3) Except for services as defined in WAC 388-86-027 group screening for dental services is not permitted under the program.

[Statutory Authority: 1987 1st ex.s. c 7, 88-02-034 (Order 2580), § 388-86-020, filed 12/31/87. 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 shall 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 except for the initial dentures and replacement of dentures more than five years old.

[Statutory Authority: RCW 74.08.090, 88-15-010 (Order 2649), § 388-86-021, filed 7/8/88; 81-16-033 (Order 1685), § 388-86-021, filed 7/29/81.]

WAC 388-86-030 Eyeglasses and examinations. (1) The department shall provide for eye examinations to eligible recipients when medically necessary. Eyeglasses and fitting services shall be provided when a refractive

error of sufficient magnitude exists to require corrective lenses.

(2) The department shall provide only one examination, fitting fee, refraction and one pair of glasses per eligible recipient during a twelve-month period, except (a) for eye services provided under the EPSDT program, or (b) 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) The department shall not provide sunglasses, photochromic or varalux type lenses and orthoptics therapy.

(6) Except for services as defined in WAC 388-86-027 the department shall not permit group screening for eyeglasses.

[Statutory Authority: RCW 74.08.090, 87-23-055 (Order 2559), § 388-86-030, filed 11/18/87; 86-02-031 (Order 2321), § 388-86-030, filed 12/27/85; 85-18-065 (Order 2279), § 388-86-030, filed 9/4/85; 82-23-005 (Order 1900), § 388-86-030, filed 11/4/82; 81-16-033 (Order 1685), § 388-86-030, filed 7/29/81; 80-13-020 (Order 1542), § 388-86-030, filed 9/9/80; 79-01-002 (Order 1359), § 388-86-030, filed 12/8/78; 78-06-087 (Order 1301), § 388-86-030, filed 6/2/78; Order 1233, § 388-86-030, filed 8/31/77; Order 1203, § 388-86-030, filed 4/1/77; Order 1112, § 388-86-030, filed 4/15/76; Order 994, § 388-86-030, filed 12/31/74; Order 738, § 388-86-030, filed 11/22/72; Order 385, § 388-86-030, filed 8/27/69; Order 264 (part), § 388-86-030, filed 11/24/67.]

WAC 388-86-040 Hearing aids. (1) The department shall provide to categorically needy recipients:

(a) The purchase of a new hearing aid covered by a one-year warranty under the following conditions:

(i) Prescription by the attending physician; and

(ii) Fifty decibel minimum hearing loss in the better ear based on auditory screening at 500, 1000, 2000, and 4000 Hertz (Hz) with effective masking as indicated; and

(iii) The department shall not be 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) The department shall not permit group screening for hearing aids under the program.

(3) The department shall refer recipients under eighteen years of age to the local children's coordinated services (Title V) program, administered by the local districts.

(4) Recipients 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, 88-19-030 (Order 2692), § 388-86-040, filed 9/12/88; 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 388-86-050 Inpatient hospital care. (1) The division of medical assistance shall provide hospitalization for recipients under sixty-five years of age and for recipients sixty-five years of age and over who have exhausted Medicare benefits. With exceptions and limitations in WAC 388-86-051 the recipient shall have free choice of hospitalization.

(2) The division of medical assistance shall require prior approval for nonemergent hospital admissions.

(3) The division of medical assistance shall certify hospital admission, length of stay, and/or services for all recipients.

(4) Length of stay:

(a) The division of medical assistance shall limit authorization for inpatient hospital care:

(i) In hospitals excepted from the diagnosis-related group (DRG) based pricing system;

(ii) 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*; and

(iii) Unless prior contractual arrangements are made by the department for a specified length of stay.

(b) When hospitalization of a recipient exceeds the number of days as limited by this subsection, the hospital shall, within sixty days of the final service, submit to the central authorization unit (CAU) a request for approval of the extension:

(i) With adequate justification; and

(ii) Signed by the attending physician.

(5) The division shall cover eligible recipients for involuntary admissions for acute psychiatric conditions and reimburse using the DRG payment methodology (see WAC 388-87-070).

(6) The department shall not pay 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.

(7) The department shall make Medicaid payment for care in a state mental institution for categorically needy and medically needy individuals under twenty-one years of age and age sixty-five years of age and older.

(8) The department shall make Medicaid payments for care in an approved psychiatric facility for categorically needy and medically needy individuals under twenty-one years of age.

(9) The department shall provide for hospitalization for the treatment of acute and chronic renal failure. The department shall pay only deductibles and coinsurance for a recipient:

- (a) Who is a Medicare beneficiary; and
- (b) Who is hospitalized for such treatment or for kidney transplant.

(10) The department shall not pay for hospital days prior to one day before scheduled surgery.

(11) The department shall approve hospitalization of a recipient based on the recipient's need for semi-private accommodations and shall reimburse at the multiple occupancy rate, regardless of accommodations provided by the hospital. The department shall establish special rates for recipients covered by the Involuntary Treatment Act. Semi-private accommodations mean not less than two nor more than a four-bed room.

(12) The department shall cover 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. Services covered under this subsection shall be furnished under the direction of a physician or dentist.

[Statutory Authority: RCW 74.08.090, 88-15-010 (Order 2649), § 388-86-050, filed 7/8/88; 88-04-048 (Order 2594), § 388-86-050, filed 1/29/88; 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 388-86-051 Selective contracting program.

The department shall provide nonemergency inpatient hospital services to Medicaid recipients in selective contracting areas through the award of selective hospital contracts.

(1) Selective contracting areas (SCA) are those areas in which hospitals participate in competitive bidding for hospital contracts. The department shall base SCAs on a historical patterns of hospital use by Medicaid patients.

(2) A contracting hospital is a hospital located in a SCA that is awarded a selective hospital contract with the department to provide inpatient hospital services for Medicaid recipients.

(3) A noncontracting hospital is a hospital that is located in a SCA, is not designated as exempt, and does not have a selective contract with the department.

(4) An exempt hospital is a hospital that is either not located in a SCA or is exempted by the department. The department shall classify the following as exempt hospitals:

(a) Hospitals in a SCA that are designated by the department as "remote" hospitals. Hospitals designated as remote shall meet the following criteria:

- (i) Be a hospital located more than ten miles from the nearest hospital in the SCA; and
- (ii) Have fewer than seventy-five beds; and
- (iii) Have had fewer than five hundred Medicaid inpatient admissions during the study sample period.

(b) HMO hospitals providing inpatient services to HMO enrollees only,

(c) Children's hospitals,

(d) State psychiatric hospitals,

(e) Out-of-state hospitals in nonborder areas, and out-of-state hospitals in border areas not designated as SCAs,

(f) The Fred Hutchinson Cancer Research Center (bone marrow transplant beds), and

(g) Separate (freestanding) psychiatric facilities including Fairfax Hospital in Kirkland, Washington; Mid-Columbia Hospital in Richland, Washington; and Pine Crest Hospital in Couer d'Alene, Idaho.

(5) Medicaid recipients receiving inpatient services in a SCA shall be limited to the contracting or exempt hospital(s) in the SCA for elective (nonemergent) inpatient hospital services. The following exclusions shall apply:

(a) The department shall pay for inpatient hospital services, provided by any hospital, for treatment of emergency medical conditions. An emergency medical condition is a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- (i) Placing the patient's health in serious jeopardy;
- (ii) Serious impairment to bodily functions; or
- (iii) Serious dysfunction of any bodily organ or part.

(b) The department shall pay for inpatient services provided by any hospital to Medicaid recipients determined to reside an excessive travel distance from a contracting hospital.

(i) The recipient is deemed to have an excessive travel burden if the travel distance from a recipient's residence to the nearest contracting hospital exceeds the recipient's county travel distance standard as defined by the department.

(ii) If a recipient must travel outside his/her SCA to obtain inpatient services not available within the community (such as treatment from a tertiary hospital), the recipient shall obtain such services from a contracting

hospital, unless the services can be obtained from a non-contracting hospital that is located a closer distance to the recipient's residence than a contracting hospital.

(c) The department shall reimburse all applicable Medicare deductible and coinsurance amounts for inpatient services at any hospital for Medicaid recipients who are also beneficiaries of Medicare Part A.

[Statutory Authority: RCW 74.08.090, 88-04-048 (Order 2594), § 388-86-051, filed 1/29/88.]

WAC 388-86-071 Private duty nursing services. (1) The department shall approve private duty nursing services when:

(a) The patient would otherwise be institutionalized; and

(b) The care is provided in a noninstitutional setting; and

(c) The services are medically necessary; and

(d) The cost of the services will not exceed the cost of:

(i) Available skilled nursing facility care as determined by the exceptional rate review; or

(ii) Hospital care if skilled nursing facility care is not available; and

(e) The patient requires more nursing care than is available through home health services; and

(f) The care is provided by a registered or licensed practical nurse under the direction of a physician; and

(g) The division of medical assistance has given prior approval to the overall plan of care.

(2) The patient and/or family may pay for supplemental services, not covered in the approved plan of care, as provided in WAC 388-83-010(3).

[Statutory Authority: RCW 74.08.090, 87-06-002 (Order 2469), § 388-86-071, filed 2/19/87; 83-01-056 (Order 1923), § 388-86-071, filed 12/15/82.]

WAC 388-86-075 Outpatient and emergency care.

(1) The department shall require no authorization for categorically needy or limited casualty program—medically needy recipients to receive outpatient service, emergent outpatient surgical care, and other emergency care performed on an outpatient basis in a hospital. The provider shall present justification for the service with the request for payment.

(2) A recipient of the limited casualty program—medically indigent shall have medical consultant approval for emergency room services.

[Statutory Authority: RCW 74.08.090, 88-15-010 (Order 2649), § 388-86-075, filed 7/8/88; 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 388-86-085 Transportation (other than ambulance). The department shall 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:

(1) The department shall not provide transportation outside the local community unless necessary medical care is not available locally. 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 care;

(2) The department shall provide transportation as a medical service or as an administrative service in designated counties;

(3) The department shall provide or arrange transportation only through designated contractors/brokers in counties/areas where transportation is provided as an administrative service; and

(4) When the department provides transportation as a medical service, the following guidelines shall apply:

(a) Reimbursement for recipient transportation shall only be made:

(i) When other sources of transportation are not available, accessible, or suitable to the medical needs of the recipient; and

(ii) Only for the least expensive mode of transportation available that is suitable to the recipient's medical need.

(b) Only authorize cabulance transportation 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) The department shall authorize transportation by nonprofit organizations when personal transportation, volunteer transportation, and/or transit services are not available or not accessible by the recipient, and transportation is medically necessary. The department shall authorize the use of specialized equipment, such as wheelchair lifts, by nonprofit organizations 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;

(d) The department shall reimburse recipients or volunteers at rates established by the department for transportation to and from medically necessary and covered services by private automobile owned by recipient under the following conditions:

(i) Recipient's own automobile must be the least expensive available means suitable to the recipient's medical need; and

(ii) Presume other transportation available if the location of medical services is not more than twenty miles from the recipient's home or if public transportation is available.

(e) Authorize taxi transportation when medically necessary and other less expensive modes of transportation are not available or not appropriate to meet the recipient's needs;

(f) Authorize interstate and intrastate transportation (e.g., bus, train, air, etc.) when:

(i) Transportation is medically necessary; and

(ii) Necessary medical treatment is not available locally; and

(iii) The physical condition of the recipient is such that the use of any other method of transportation is inadvisable.

(g) The department shall certify providers in accordance with rules established by the division of medical assistance and shall operate their services in accordance with all federal, state, and local ordinances, statutes, and regulations.

[Statutory Authority: RCW 74.08.090. 88-20-042 (Order 2702), § 388-86-085, filed 9/30/88; 88-06-083 (Order 2600), § 388-86-085, filed 3/2/88; 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 388-86-086 Ambulance services. (1) Ambulance services shall be provided to transport recipients to and from medical care services covered under the medical assistance program in accordance with the following guidelines:

(a) Transport by ambulance shall 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.

(b) Transport shall only be made to and from medical services within the local community unless necessary medical care is not available locally.

(2) Air ambulance services shall 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 mode of transportation is inadvisable.

[Statutory Authority: RCW 74.08.090. 88-06-083 (Order 2600), § 388-86-086, filed 3/2/88.]

WAC 388-86-090 Physical therapy. (1) The department shall provide physical therapy:

(a) As an outpatient service when requested by the attending physician and the therapy:

(i) Will avoid the need for hospitalization or nursing home care, or

(ii) Will assist the recipient in becoming employable, or

(iii) Is part of a treatment program intended to restore normal function of a body part following injury, surgery, or prolonged immobilization, and

(iv) Is performed by a registered physical therapist or physiatrist.

(b) As a part of and included in the payment of another treatment program including, but not limited to:

(i) Hospital inpatient services, or

(ii) Nursing home services, or

(iii) Home health care.

(2) Outpatient physical therapy services shall require prior approval by the division of medical assistance.

(3) Outpatient physical therapy shall not be provided under the limited casualty program.

[Statutory Authority: RCW 74.08.090. 88-01-043 (Order 2568), § 388-86-090, filed 12/11/87; 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) The department shall provide physical examinations 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; and

(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 GA-U program, see chapter 388-37 WAC.

(2) The department shall pay consultant or specialist fees for covered services in accordance with local medical bureau practices with the following limitations:

(a) No consultation fee shall be paid when the specialist subsequently performs surgery or renders treatment for which flat fees or fees-for-service accrue; and

(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) The department shall limit physicians' services to the following:

(a) Two calls per month for payment for physicians' calls for nonemergent conditions in a skilled nursing facility or an intermediate care facility. The physician

shall justify requests for payment for additional visits at the time the billing is submitted;

(b) One call per day for payment for hospital calls. 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; and

(d) For limitations on out-of-state physicians' services see WAC 388-86-115.

(4) Medically necessary surgical procedures not requiring hospitalization and performed in an outpatient setting do not require prior approval.

(5) The department shall consider cataract surgery medically necessary when the following conditions exist:

(a) Vision is 20/200 in the worse eye;

(b) Vision is worse than 20/70, distant vision, and J-5 with +3.50, near vision, in better eye;

(c) When extenuating circumstances are present, such as employment requirements, need to drive, and the vision is worse than 20/40, distant vision, in the better eye; or

(d) Other unusual circumstances.

(6) Cataract surgery shall require prior departmental approval except when conditions in subsections (5)(a) or (b) of this section are met.

(7) 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, 88-15-010 (Order 2649), § 388-86-095, filed 7/8/88; 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) The department shall provide medically necessary podiatric services 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; and

(e) One visit every six months may be permitted for debridement and cutting of mycotic toenails.

(2) Elective surgery requiring hospitalization shall require prior approval through the central authorization unit. Where less expensive, more conservative treatment is available, surgery will not be approved.

(3) The department shall exclude the following services:

(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; and

(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, the department may provide more frequent foot care 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; and

(c) Such care has received prior approval of the medical director or designee.

[Statutory Authority: RCW 74.08.090, 88-15-010 (Order 2649), § 388-86-09601, filed 7/8/88; 82-01-001 (Order 1725), § 388-86-09601, filed 12/3/81; 81-16-033 (Order 1685), § 388-86-09601, filed 7/29/81.]

WAC 388-86-098 Speech therapy services. (1) The department shall provide speech therapy 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. The therapist shall document medical necessity in the therapist's records.

(2) The department shall apply the following conditions to approval of speech therapy:

(a) Prior approval requirements:

(i) All speech therapy for clients three years of age through twenty years of age requires prior approval; and

(ii) For clients under three years of age or twenty-one years of age and over, speech therapy, except for the evaluation and up to twelve sessions of speech therapy in a twelve-month period, requires prior approval.

(b) That the services be performed by a speech pathologist granted a 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; and

(c) 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. 88-15-010 (Order 2649), § 388-86-098, filed 7/8/88; 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 388-86-120 Medical care services. (1) A recipient of medical care services shall be eligible to receive the same scope of care (WAC 388-86-005) as a recipient of Medicaid, except that:

(a) No care shall be provided outside the state of Washington other than in designated bordering cities as specified in chapter 388-82 WAC, and

(b) Mental health services shall 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, and

(c) Dental services shall not be provided.

(2) Eligibility for medical care services shall commence with the date of certification under WAC 388-84-120. The department shall not retroactively certify for medical care services.

[Statutory Authority: 1987 1st ex.s. c 7. 88-02-034 (Order 2580), § 388-86-120, filed 12/31/87. Statutory Authority: 1987 c 406. 87-19-091 (Order 2539), § 388-86-120, filed 9/17/87. Statutory Authority: RCW 74.08.090. 85-21-062 (Order 2295), § 388-86-120, filed 10/16/85; 84-07-015 (Order 2084), § 388-86-120, filed 3/14/84; 83-17-006 (Order 1996), § 388-86-120, filed 8/5/83; 82-18-062 (Order 1869), § 388-86-120, filed 9/1/82; 81-16-033 (Order 1685), § 388-86-120, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-120, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-120, filed 10/9/80; 79-06-034 (Order 1402), § 388-86-120, filed 5/16/79; 79-01-002 (Order 1359), § 388-86-120, filed 12/8/78; 78-02-024 (Order 1265), § 388-86-120, filed 1/13/78; Order 1233, § 388-86-120, filed 8/31/77; Order 1172, § 388-86-120, filed 11/24/76; Order 1014, § 388-86-120, filed 3/14/75; Order 994, § 388-86-120, filed 12/31/74; Order 967, § 388-86-120, filed 8/29/74; Order 938, § 388-86-120, filed 5/23/74; Order 924, § 388-86-120, filed 4/15/74; Order 911, § 388-86-120, filed 3/1/74; Order 879, § 388-86-120, filed 11/29/73; Order 680, § 388-86-120, filed 5/10/72; Order 581, § 388-86-120, filed 7/20/71; Order 549, § 388-86-120, filed 3/31/71, effective 5/1/71; Order 501, § 388-86-120, filed 12/9/70; Order 453, § 388-86-120, filed 5/20/70, effective 6/20/70; Order 335, § 388-86-120, filed 2/3/69; Order 303, § 388-86-120, filed 9/6/68; Order 264 (part), § 388-86-120, filed 11/24/67.]

**Chapter 388-87 WAC
MEDICAL CARE--PAYMENT**

WAC	
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WAC 388-87-005 Payment--Eligible providers defined. (1) The following providers shall be eligible for enrollment to provide medical care services:

(a) Persons currently licensed by the state of Washington to practice medicine, osteopathy, dentistry, optometry, podiatry, nursing, chiropractic, dental hygiene, 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 according to chapter 70.126 RCW;

(f) An independent (outside) laboratory certified to participate under Title XVIII or determined currently to meet the Medicare requirements for such participation;

(g) A company or individual, not excluded in subsection (3) of this section, supplying items vital to the provision of medical care services such as ambulance service, oxygen, eyeglasses, other appliances, or approved services, not otherwise covered by this section;

(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 qualified and approved center for the detoxification of acute alcoholic conditions;

(j) A qualified and approved 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; and

(m) An out-of-state provider of services listed in subsection (1)(a) through (k) of this section subject to conditions specified in WAC 388-87-105.

(2) Under the mandatory and discretionary provision of RCW 74.09.530, the services of the following practitioners shall not be furnished to applicants or recipients:

(a) Saninpractors;

(b) Naturopaths;

(c) Homopathists;

(d) Herbalists;

(e) Masseurs or manipulators;

(f) Christian Science practitioners or theological healers; and

(g) Any other licensed or unlicensed practitioners not otherwise specifically provided for in these rules.

(3) Conditions of eligibility.

(a) Nothing in this section shall bind the department to enroll all eligible providers capable of delivering covered services. The department shall demonstrate its plan for service delivery creates adequate access to covered services.

(b) When a provider has a restricted professional license or has been terminated, excluded, or suspended from the Medicare/Medicaid programs, the department shall not authorize provider eligibility unless the department has determined the violations leading to the sanction or license restriction are not likely to be repeated. In its determination, the department shall consider whether the provider has been convicted of offenses related to the delivery of professional or other services not considered during the development of the previous sanction.

(c) The department shall not reinstate in the medical assistance program, a provider suspended from Medicare or suspended by the department of health and human services (DHHS) until notified by DHHS that the provider may be reinstated.

(d) Nothing in this subsection shall preclude the department from denying provider enrollment 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. 88-16-084 (Order 2665), § 388-87-005, filed 8/2/88; 87-12-056 (Order 2501), § 388-87-005, filed 6/1/87; 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 department shall offer the medical care program through the use of enrolled providers of medical and other covered services. To be enrolled, a provider shall be licensed, if required, to provide said services, shall meet the conditions of eligibility defined in WAC 388-87-005, and shall sign and submit a standard contract form to the department agreeing to participate in the program according to the terms of this section. This contract form and participation by the provider according to the terms of this section shall constitute the agreement between the department and the provider. The department shall issue contract provider numbers to enrolled providers which is authorization to participate in the medical care program. Providers who participate in the medical care program 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 shall limit its responsibility for payment of services provided in a retroactive period, as defined in WAC 388-80-005, to cases in which the cost of the services has not been otherwise paid. It is appropriate, but not required, that a provider refund to a recipient any payment received in a retroactive period of eligibility for Medicaid. 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 retroactively, the provider shall not bill the recipient for any unpaid charges for covered services remaining from the retroactive period.

(5) Provider billing invoices submitted to the department 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, sex, religion, national origin, marital status, or the presence of any sensory, mental or physical handicap."

(6) Providers shall render all services without discrimination on the grounds of race, creed, color, sex, religion, national origin, marital status, or the presence of any sensory, mental or physical handicap.

(7) The department shall give a thirty-day written notice of action to suspend or withdraw the provider's number and contract authorization to participate in the medical care program. The thirty-day notice shall not be required if:

(a) A provider is convicted of a criminal offense related to participation in the Medicare/Medicaid program; or

(b) The provider's license is suspended or revoked; or

(c) Federal funding is revoked; or

(d) By investigation, the department can document a violation of law or contract; or

(e) 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. If such a contract involves the payment of Title XIX funds, the contract shall satisfy

all requirements of the standard form contract as modified by any applicable federal waivers.

(10) The provider must meet the disclosure of ownership requirements of WAC 388-87-008.

[Statutory Authority: RCW 74.08.090. 88-16-084 (Order 2665), § 388-87-007, filed 8/2/88; 85-04-022 (Order 2198), § 388-87-007, filed 1/30/85; 83-17-095 (Order 2007), § 388-87-007, filed 8/23/83; 83-10-077 (Order 1958), § 388-87-007, filed 5/4/83; 80-13-020 (Order 1542), § 388-87-007, filed 9/9/80.]

WAC 388-87-010 Conditions of payment--General.

(1) The department shall be responsible for payment of service rendered to a recipient only when the services are within the scope of care, properly authorized and the recipient certified as eligible.

(2) The fees and rates established by the department shall constitute the maximum allowable payment for approved medical care and services provided to recipients by the providers, except as specified in chapter 388-86 WAC.

(3) When a provider of service furnishes services to an eligible recipient and does not bill the department for services for which the department is responsible for payment, or fails to satisfy department conditions of payment such as prior approval and timely billing, the recipient is under no obligation to pay the provider.

(4) Payment for any service furnished to a recipient by a provider may not be made to or through a factor who advances money to that provider for accounts receivable.

(5) The department will not be responsible for payment for medical care and goods and/or services provided to a recipient enrolled in a department-contracted, prepaid medical plan who fails to use the provider under contract unless emergency conditions exist or the department has approved payment to another provider for provision of a service not covered by the prepaid plan.

(6) The department will not be responsible for payment of that portion of medical care or services reimbursable within a reasonable time by a third-party resource available to the recipient such as health insurance coverage, casualty insurance or when medical needs result from accident or injury caused by another party. See chapter 388-83 WAC.

(7) Payment for care under the medical assistance or limited casualty-medically needy programs will be retroactive for three months prior to the month of application provided the applicant would have been eligible when the care was received. The applicant need not be eligible at the time of actual application. Medical services that require approval must be approved by the CSO medical consultant for the retroactive period.

(8) Payment for care under the limited casualty program-medically indigent may be retroactive for seven days prior to the date of application if applicant is otherwise eligible. Medical services that require approval must be approved by the CSO medical consultant for the retroactive period.

(9) A claim by a provider for payment for services rendered to a person who subsequently is determined to be ineligible at the time service was rendered may be paid under the following conditions only:

(a) The ineligible person must have been certified as both financially and medically eligible,

(b) Payment has not been made from sources outside the department,

(c) A request for such payment must be submitted and approved by the division of medical assistance.

(10) Payment for medically necessary services shall be made on the basis of usual and customary charges or the rates established by the department, whichever is lower.

(11) Payment for well-baby care is not authorized except as provided under the EPSDT program. See WAC 388-86-027.

(12) In counties/areas where transportation is provided as a medical service, payment for medically necessary transportation services, provided by nonprofit organizations shall 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. 88-06-083 (Order 2600), § 388-87-010, filed 3/2/88; 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.

(a) When the patient's Part A benefits and lifetime reserve days are not exhausted, the Medicare DRG shall be recognized as payment in full. Except for deductible and coinsurance amounts, Medicaid will not pay for the stay.

(b) When the patient's Part A benefits and lifetime reserve days are exhausted and no outlier status is identified, the Medicare DRG shall be recognized as payment in full. Except for deductible and coinsurance amounts, Medicaid will not pay for the stay.

(c) When the patient's Part A benefits and lifetime reserve days are exhausted and Medicaid outlier status is reached, Medicaid shall pay for the amount beyond the outlier threshold based on the policy described in (d) of this subsection. Medicaid shall not reimburse for a second separate DRG.

(d) The department's outlier policy shall be based on the methodology prescribed in the department's Title XIX state plan, methods and standards used for establishing payment rates for hospital inpatient services.

(2) The provider accepts assignment for Medicare payment.

[Statutory Authority: RCW 74.08.090. 88-11-061 (Order 2624), § 388-87-011, filed 5/17/88; 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 388-87-013 Conditions of payment--Hospital care. (1) All hospital admissions shall be subject to department review and approval. Prior department approval is required for all nonemergent hospital admissions.

(2) Neither the department nor the recipient shall be responsible for payment for:

(a) Additional days of hospitalization in the case of a hospitalized recipient when:

(i) The PAS limitations have been exceeded, and

(ii) The provider has not obtained department approval unless prior contractual arrangements are made by the department for a specified length of stay, or

(b) Elective (nonemergent) inpatient services received by a Medicaid recipient from a noncontracting hospital in a SCA unless:

(i) Exclusions in WAC 388-86-051 apply, or

(ii) The recipient makes contractual arrangements with the hospital at least seventy-two hours in advance of the hospital admission making the recipient responsible for payment.

(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 the department will make payment for hospitalization from Title XIX funds.

[Statutory Authority: RCW 74.08.090. 88-04-048 (Order 2594), § 388-87-031, filed 1/29/88; 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. (1) Providers shall submit their charges at least monthly and shall present their final charges within one hundred twenty days after the date the service was rendered. See RCW 74.09.160.

(2) An exception to subsection (1) of this section shall be made as a result of:

(a) A fair hearing decision or court order which is favorable to the recipient; or

(b) A retroactive or delayed certification for medical assistance (see chapter 388-80 WAC for definition of retroactive).

(3) For exceptions found under subsection (2) of this section providers shall present final charges to the department within one hundred twenty days of:

(a) The date of the fair hearing decision;

(b) The date the court order was entered; or

(c) The date of retroactive or delayed certification for medical coverage.

(4) If the charges are not presented within the one hundred twenty-day period, the provider shall not present charges against the state unless prior extension in writing has been given by the division of medical assistance.

(5) Providers shall submit their rebills or adjustments to charges within six months from the date of the most recent or original denial or payment.

(6) Providers shall submit Medicare/Medicaid billings within six months of the Medicare statement.

[Statutory Authority: RCW 74.08.090. 88-01-041 (Order 2566), § 388-87-015, filed 12/11/87; 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 388-87-027 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) Transportation (other than ambulance) - 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. 88-06-083 (Order 2600), § 388-87-027, filed 3/2/88; 86-02-031 (Order 2321), § 388-87-027, filed 12/27/85; 83-01-056 (Order 1923), § 388-87-027, filed 12/15/82; 82-01-001 (Order 1725), § 388-87-027, filed 12/3/81;

81-16-032 (Order 1684), § 388-87-027, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-027, filed 4/27/81; 80-13-020 (Order 1542), § 388-87-027, filed 9/9/80; 79-09-053 (Order 1427), § 388-87-027, filed 8/24/79; 78-06-087 (Order 1301), § 388-87-027, filed 6/2/78; 78-02-024 (Order 1265), § 388-87-027, filed 1/13/78; Order 1233, § 388-87-027, filed 8/31/77; Order 1158, § 388-87-027, filed 10/6/76; Order 1098, § 388-87-027, filed 2/13/76; Order 1019, § 388-87-027, filed 4/30/75; Order 930, § 388-87-027, filed 4/25/74; Order 714, § 388-87-027, filed 9/14/72; Order 681, § 388-87-027, filed 5/10/72; Order 500, § 388-87-027, filed 12/2/70; Order 485, § 388-87-027, filed 10/13/70; Order 419, § 388-87-027, filed 12/31/69.]

WAC 388-87-035 Payment--Transportation (other than ambulance). (1) Payment for recipient transportation shall be made for individuals eligible in accordance with WAC 388-86-085.

(2) When transportation is provided as a medical service the following shall apply:

(a) Payment 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 recipient transportation provided by nonprofit organizations shall be made on the basis of the operating costs incurred in providing that transportation but shall not exceed the rates established by the department.

(b) Methods of reimbursement and required billing procedures for recipient transportation services shall be published as necessary by the division of medical assistance.

(c) Providers of recipient transportation services must show medical justification on the billing document for the type of transportation utilized as well as the need for medical care.

(d) 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.

(e) Taxi and bus transportation services shall be operated and equipped in accordance with state and local statutes, ordinances and regulations.

(f) Vehicles utilized by nonprofit organizations seeking reimbursement for transportation services provided recipients shall be operated and equipped in accordance with minimum requirements established by the division of medical assistance and other applicable statutes, ordinances, and regulations.

(g) Commercial air transportation services shall be licensed, operated, and equipped in accordance with applicable federal, state, and local statutes, ordinances, and regulations.

(3) Payment for recipient transportation when provided as an administrative service shall be made according to the contracts between the department and the contractor.

[Statutory Authority: RCW 74.08.090. 88-06-083 (Order 2600), § 388-87-035, filed 3/2/88; 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 388-87-036 Payment--Ambulance services.

(1) Payment for ambulance services provided eligible recipients shall be made according to WAC 388-86-086.

(2) Payment for ambulance services provided eligible recipients shall be made on the basis of usual and customary charges or the rates established by the department, whichever is lower.

(3) Methods of reimbursement and required billings procedures for ambulance services provided eligible recipients shall be published as necessary by the division of medical assistance.

(4) Providers of ambulance services must show medical justification on billing document for transport and other services/supplies as well as the need for medical care.

(5) Ground and air ambulance shall be licensed, operated, and equipped in accordance with applicable federal, state, and local statutes, ordinances, and regulations.

[Statutory Authority: RCW 74.08.090. 88-06-083 (Order 2600), § 388-87-036, filed 3/2/88.]

WAC 388-87-062 Payment--Eyeglasses and examinations. Payments for vision services and eyeglass materials shall be on the basis of rates established by the department through HMO or optical supplier contracts.

[Statutory Authority: RCW 74.08.090. 87-23-055 (Order 2559), § 388-87-062, filed 11/18/87.]

WAC 388-87-070 Payment--Hospital inpatient services. (1) The department shall pay hospital costs of categorically needy, medically needy, medically indigent and medical care services recipients as defined in WAC 388-80-005, as now or hereafter amended, who are patients in general hospitals when such hospitals meet the criteria as defined in RCW 70.41.020, as now or hereafter amended.

(2) The department shall determine payment for hospital inpatient services according to a diagnosis related group (DRG) based formula pricing system established by the department, except for hospitals participating in the selective contracting program as prescribed in WAC 388-86-051 and services excluded from DRG-based reimbursement as prescribed in subsection (4) of this section. The department shall base formula price payments on the methodology prescribed in the department's State Plan under Title XIX of the Social Security Act, Methods and Standards Used for Establishing Payment Rates for Hospital Inpatient Services (hereafter referred to as the Title XIX State Plan).

(3) The rate structure of selective contracting hospitals for inpatient hospital services is identified in Appendix B of such selective contracts. The rate shall be inclusive of all inpatient services provided either directly or indirectly by the contractor and constitutes the department's maximum financial obligation under the contract.

(4) Certain services are excluded from the diagnosis related group based reimbursement system. These exclusions shall include:

(a) Rehabilitation services provided in department approved rehabilitation hospitals and general hospital distinct units, and services for physical medicine and rehabilitation (PM&R) patient,

(b) Pain treatment provided in department approved pain treatment facilities,

(c) Free standing psychiatric hospitals,

(d) Alcoholism treatment and detoxification provided in a department approved alcohol treatment center (ATC),

(e) DRGs 385-389,

(f) Long-term hospital level care services,

(g) Services provided to patients occupying beds utilized by the Fred Hutchinson Cancer Research Center bone marrow transplant program.

(h) HMO hospitals providing inpatient services to HMO enrollees, and

(i) Department approved services to AIDS patients.

(5) Payments for excluded DRG-based services are based on the Operating Expenses to Total Rate Setting Revenue (OE/TRSR) price methodology as prescribed in the department's Title XIX State Plan. For out-of-state hospitals, including border area hospitals, the department shall apply the Washington state-wide average OR/TRSR to allowable charges, unless the border hospital is a contracting hospital.

(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 medical care services. 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

[Statutory Authority: RCW 74.08.090, 88-04-048 (Order 2594), § 388-87-070, filed 1/29/88. Statutory Authority: 1987 c 406, 87-19-091 (Order 2539), § 388-87-070, filed 9/17/87. 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 388-87-105 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 are those of the state in which care is rendered.

(2) Payment shall not be authorized for out-of-state medical care furnished to state-funded recipients.

(3) The three-month retroactive coverage shall apply to out-of-state care given for covered medical care to eligible clients.

(4) Out-of-state providers, who do not have a current provider number (agreement), shall be furnished with necessary billing forms, instructions, and a core provider agreement.

(5) Upon receipt of the signed core provider agreement from the out-of-state provider a provider number shall be issued.

(6) Final charges from out-of-state providers without a current provider number must be presented within one hundred twenty days of the issuance of a provider number. In no case shall the state of Washington be liable for payment of charges received beyond one year from the termination of services.

(7) Out-of-state providers with a current provider number (agreement) are subject to the billing requirements of WAC 388-87-015.

(8) 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.

(9) Approved out-of-state skilled nursing home reimbursement rate is the lower of:

(a) The billed amount; or

(b) The adjusted state-wide average reimbursement rate for in-state skilled nursing home care.

(10) The reimbursement rate for out-of-state hospitals is the lower of:

(a) The billed amount; or

(b) The adjusted state-wide average reimbursement rate for in-state hospitals.

(11) The reimbursement for other out-of-state services is the lower of:

(a) The billed amount; or

(b) The rate paid by the Washington state Title XIX Medicaid program.

[Statutory Authority: RCW 74.08.090, 87-12-056 (Order 2501), § 388-87-105, filed 6/1/87; 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 388-87-115 Payment--Organ transplantation. The department shall pay for organ transplantation procedures:

(1) Only to medical centers that:

(a) Meet the standards established by the department; and

(b) Enter into a special agreement with the department.

(2) Limited to the heart, kidney, liver, and bone marrow.

[Statutory Authority: RCW 74.08.090, 87-12-050 (Order 2495), § 388-87-115, filed 6/1/87.]

Chapter 388-88 WAC

MEDICAL CARE--NURSING HOME CARE

WAC

388-88-050 Adequate nursing home care.

388-88-101 Residents' rights.

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 shall 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 shall 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). Ancillary care services include 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; and

(ix) Effective July 1, 1988, personal laundry services.

(2) The nursing home shall provide equipment and supplies essential for the provision of adequate health care as required in subsection (1) of this section. The

nursing home shall provide the following items including but not limited to:

(a) Beds, mattresses, bedrails, footstools, traction equipment, cradles, footboards, and trapeze bars;

(b) Resident gowns, linen, 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) Over-the-counter screening tests for blood glucose and occult blood in the stool, 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. Such supplies and devices include, but are not limited to:

(i) Nonsurgical dressings (e.g., decubiti),

(ii) Suction supplies,

(iii) Urethral catheters and drainage systems, and

(iv) 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 shall 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. 88-04-041 (Order 2592), § 388-88-050, filed 1/28/88. 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 388-88-101 Residents' rights. (1) The department shall notify the appropriate individual(s) listed in subsection (2) of this section whenever a medical assistance client must be discharged from a nursing home because:

(a) There is a reclassification of the client's required level of care, resulting in termination of medical assistance payments to the nursing home where the client currently resides; or

(b) The nursing home where the client currently resides has requested the client be relocated, and the department has approved, for:

- (i) Medical reasons concerning the client;
- (ii) The welfare of the client or other residents; or
- (iii) Nonpayment by the client.

(2) The department shall provide the notification required in subsection (1) of this section to one or more of the following, as appropriate:

- (a) The medical assistance client;
- (b) The medical assistance client's legal guardian;
- (c) The medical assistance client's next of kin or responsible party.

(3) The department shall provide the notification required in subsection (1) of this section in writing thirty days prior to:

- (a) The effective date of the reclassification resulting in termination of medical assistance payments to the nursing home; or
- (b) The relocation requested by the nursing home.

(4) The department is not required to provide notification in cases specified in subsections (7) and (8) of this section.

(5) The department's notice shall inform the client of:

- (a) The reasons for the proposed change and/or transfer;
- (b) The client's 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 client's 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 client's right to be represented at the fair hearing by an authorized representative; and

(f) The existence of any legal services available in the community and the toll-free telephone number of the state long-term care ombudsman.

(6) 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) The department shall take no further action to change the level of care or transfer the patient if the secretary or his or her designee finds a change in the level of care is not appropriate at the time. If there is a change in the situation or circumstances, the department may again initiate action to reclassify or relocate the client.

(c) The department shall proceed with the planned action if:

(i) The secretary or his or her designee affirms the determination to change the level of care or transfer, and

(ii) No judicial review is filed within thirty days of receipt of notice of termination.

(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:

(i) Thirty days following the effective date of determination; or

(ii) Thirty days following the fair hearing decision affirming the department's determination of not in need of nursing care.

(7) 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; or
- (v) Emergency license suspension.

(8) No notice shall be required if a decision is made to reclassify a client but no discharge, transfer, or relocation of the client from the nursing home is necessary or contemplated as a result of such decision to reclassify.

[Statutory Authority: RCW 74.42.620. 88-04-041 (Order 2592), § 388-88-101, filed 1/28/88; 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.]

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

388-92-041 Medicaid qualifying trusts.
388-92-045 Excluded resources.

WAC 388-92-041 Medicaid qualifying trusts. (1) A Medicaid qualifying trust is a grantor trust, or other similar legal device, set up by the client (or spouse) under which:

(a) The client may be the beneficiary of all or part of the payments from the trust; and

(b) The distribution of such payments is determined by one or more trustees; and

(c) The trustees are permitted to use discretion with respect to the distribution to the client.

(2) The amount deemed to be available to the client from the trust is the greatest amount of payments permitted to be distributed under the terms of the trust.

(3) This section shall apply:

(a) Whether or not the Medicaid qualifying trust:

(i) Is irrevocable; or

(ii) Is established for purposes other than to establish eligibility for medical assistance.

(b) Whether or not the trustees actually use the discretion permitted by the trust.

(4) The department shall waive the requirements of this section if undue hardship exists. Each case involving a Medicaid qualifying trust shall be evaluated on an individual basis to decide if undue hardship exists. Undue hardship shall include but not be limited to situations in which:

(a) The trustee has refused to disburse the funds from the trust and the client has filed and is actively pursuing litigation to require the trustee to disburse said funds; or

(b) The client would be forced to go without life sustaining services because trust funds are not made available to pay for the services.

(5) This section shall not apply to any trust or initial trust decree established:

(a) Prior to April 7, 1986; and

(b) Solely for the benefit of a mentally retarded client who lives in an intermediate care facility for the mentally retarded.

[Statutory Authority: RCW 74.08.090 and chapter 74.09 RCW. 87-10-022 (Order 2486), § 388-92-041, filed 5/1/87.]

WAC 388-92-045 Excluded resources. Applicants or recipients may transfer or exchange exempt resources. Exclude cash received from the sale of an exempt resource to the extent that it is used to replace or reinvest in another exempt resource within three months. Consider any remaining portion a nonexempt resource. In determining the value of resources the department shall exclude the following:

(1) A home:

(a) A home is any shelter:

(i) In which the client(s) has ownership interest; and

(ii) Which is used by the client(s) as the principal place of residence. Only one home may be the principal place of residence.

(b) Absences from the home shall not affect the home exclusion. It continues to be the principal place of residence as long as:

(i) The individual intends to return home.

Accept the client's statement of intent without challenge; or

(ii) The home is used by a spouse or dependent relative during the individual's absence. Dependency may be either financial or medical. The client's or dependent relative's written allegation of dependency or relationship shall be accepted unless there is reason to question it.

(c) The proceeds from the sale of the excluded home shall be excluded to the extent they are used to purchase another home within three months of the receipt of the proceeds. Proceeds shall include real estate contracts, or any similar home financing arrangements, and the income stream produced by them.

(2) Household goods and personal effects.

(3) Automobile(s):

(a) Totally exclude one automobile 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

(iv) Necessary because of climate, terrain, distance, or similar factors to provide necessary transportation to perform essential daily activities.

(b) Exclude one automobile to the extent its current market value does not exceed four thousand five hundred dollars, any excess to be counted against the resource limit. An automobile may be excluded under this subdivision only if no automobile is excluded under (a) of this subsection;

(c) Other automobiles shall be treated as nonexempt resources and counted towards the resource limit to the extent of their equity value.

(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) The exclusion may also include an additional automobile or other motor vehicle (truck, tractor, trailer, etc.) if the vehicle excluded under subsection (3) of this section cannot also fulfill the self support functions.

(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:

(a) If the total face value of policies held by each individual is one thousand five hundred dollars or less the total cash surrender value shall be excluded.

(b) If the face value of policy(ies) held by each individual is over one thousand five hundred dollars there shall be no exclusion, cash surrender value must be applied to resource limitations.

(c) Term or burial insurance with no cash surrender value shall be excluded in determining total face value in (a) of this subsection.

(9) Restricted ownership: 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) Insurance settlements: Cash received from an insurance company for purposes of repairing or replacing an excluded resource that is lost, damaged, or stolen, etc., shall be 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 shall be 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) Burial funds:

(a) Of the funds specifically set aside for the burial arrangements of an individual or the individual's spouse exclude only an amount which may not exceed one thousand five hundred dollars for each spouse. Burial funds in excess of this limit shall be counted towards the resource limit in WAC 388-92-050.

(b) This exclusion shall apply 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 separately identifiable and designated as set aside for burial. Designation may be used to exclude burial funds retroactively back to the first day of the month in which the individual intended funds set aside for burial or to November 1, 1982, whichever is later.

(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 one thousand five hundred dollars exclusion shall be reduced by: (i) The face value of insurance policies on the life of an individual owned by the individual or spouse if the policies have been excluded as provided in subsection (8) of this section and (ii) 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) If any excluded burial 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) shall 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 payments: Exclude retroactive SSI or OASDI payments 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 shall not apply once the retroactive payment has been converted to any other form.

[Statutory Authority: RCW 74.08.090, 88-06-087 (Order 2604), § 388-92-045, filed 3/2/88; 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.]

**Chapter 388-95 WAC
INSTITUTIONAL--MEDICAL ASSISTANCE--
ELIGIBILITY**

WAC

388-95-337	Ownership of resources.
388-95-360	Allocation of income--Institutionalized recipient.
388-95-380	Excluded resources.
388-95-400	Medically needy--Eligibility determination-- Institutional.

WAC 388-95-337 Ownership of resources. The department shall follow Washington state community property principles in determining the ownership of resources.

(1) For purposes of Medicaid eligibility the department shall presume all resources:

(a) Are community resources if jointly held in the names of both the husband and wife, or in the name of the applicant/recipient only.

(b) Are the separate property of the nonapplicant spouse if:

(i) Held in the separate name of the nonapplicant spouse, or

(ii) Transferred between spouses pursuant to WAC 388-92-043(4).

(2) The department shall divide by two, the total value of the community resources owned by the husband and wife and assign one-half of the total value to each spouse.

[Statutory Authority: RCW 74.08.090. 88-01-042 (Order 2567), § 388-95-337, filed 12/11/87.]

WAC 388-95-360 Allocation of income--Institutionalized recipient. (1) All institutionalized clients shall retain a specified personal needs allowance.

(2) The AFDC or FIP-related client in a medical facility shall be eligible to receive a cash assistance payment sufficient to bring the client's income up to the personal needs allowance.

(3) The department shall allow SSI-related clients to 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 a less restrictive placement when:

(a) The total wages received plus the personal needs allowance do not exceed the one-person medically needy income level; and

(b) No deductions are allowed for expenses of employment; and

(c) The excess wages shall apply to the cost of care, when the total wages received plus the initial personal needs allowance exceeds the one-person medically needy income level.

(4) In addition to the allocations in subsections (1) and (3) of this section, the department shall allow SSI-

related clients residing in a medical facility throughout a calendar month the following allocations of income as applicable for:

(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 the highest AFDC or FIP payment standard for a family of the same size;

(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) Maintenance of the home of a single person:

(i) Up to one hundred eighty dollars per month; and

(ii) Limited to not more than a six-month period; and

(iii) A physician has certified the individual is likely to return to the home within that period; and

(iv) 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) The department shall use the remaining income, after allocations specified in subsections (1), (2), (3), or (4) of this section, to compute payment of the participation amount at the department rate.

(6)(a) Effective July 1, 1988, SSI-related clients shall continue to receive total payment under 1611 (b)(1) of the Social Security Act (SSA) for the first three full calendar months of institutionalization in a public or Medicaid-approved medical institution or facility if:

(i) The stay in the institution or facility is not expected to exceed three months; and

(ii) The SSI-related clients plan to return to their former living arrangements.

(b) The department shall not consider this SSI payment when computing the participation amount.

[Statutory Authority: RCW 74.08.090. 88-23-022 (Order 2721), § 388-95-360, filed 11/7/88; 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 exempt resources. Exclude cash received from the sale of an exempt resource to the extent that it is used to replace or reinvest in another exempt resource within three months. Consider any remaining portion a nonexempt resource. In determining the value of resources the department shall exclude the following:

(1) A home:

(a) A home is any shelter:

(i) In which the client(s) has ownership interest; and

(ii) Which is used by the client(s) as the principal place of residence. Only one home may be the principal place of residence.

(b) Absences from the home shall not affect the home exclusion. It continues to be the principal place of residence as long as:

- (i) The individual intends to return home; Accept the client's statement of intent without challenge; or
- (ii) The home is used by a spouse or dependent relative during the individual's absence. Dependency may be either financial or medical. The client's or dependent relative's written allegation of dependency or relationship shall be accepted unless there is reason to question it.
- (c) The proceeds from the sale of the excluded home shall be excluded to the extent they are used to purchase another home within three months of the receipt of the proceeds. Proceeds shall include real estate contracts, or any similar home financing arrangements, and the income stream produced by them.
 - (2) Household goods and personal effects.
 - (3) Automobile(s):
 - (a) Totally exclude one automobile 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
 - (iv) Necessary because of climate, terrain, distance, or similar factors to provide necessary transportation to perform essential daily activities.
 - (b) Exclude one automobile to the extent its current market value does not exceed four thousand five hundred dollars, any excess to be counted against the resource limit. An automobile may be excluded under this subdivision only if no automobile is excluded under (a) of this subsection;
 - (c) Other automobiles shall be treated as nonexempt resources and counted towards the resource limit to the extent of their equity value.
 - (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. See WAC 388-92-045(5).
 - (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:
 - (a) If the total face value of policies held by each individual is one thousand five hundred dollars or less the total cash surrender value shall be excluded.
 - (b) If the face value of policy(ies) held by each individual is over one thousand five hundred dollars there

shall be no exclusion, cash surrender value must be applied to resource limitations.

(c) Term or burial insurance with no cash surrender value shall not be considered in determining total face value in (a) of this subsection.

(9) Restricted ownership: 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) Insurance settlements: Cash received from an insurance company for purposes of repairing or replacing an excluded resource that is lost, damaged, or stolen, etc., shall be 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 shall be 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) Of the funds specifically set aside for the burial arrangements of an individual or the individual's spouse exclude only an amount which may not exceed one thousand five hundred dollars for each spouse. Burial funds in excess of this limit shall be counted towards the resource limit in WAC 388-92-050.

(b) This exclusion shall apply 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 separately identifiable and designated as set aside for burial. Designation may be used to exclude burial funds retroactively back to the first day of the month in which the individual intended funds set aside for burial or to November 1, 1982, whichever is later.

(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 one thousand five hundred dollar exclusion shall be reduced by the face value of insurance policies on the life of an individual owned by the individual or

spouse if the policies have 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) If any excluded burial 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) shall 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 payments: Exclude retroactive SSI or OASDI payments 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 shall not apply once the retroactive payment has been converted to any other form.

[Statutory Authority: RCW 74.08.090. 88-06-087 (Order 2604), § 388-95-380, filed 3/2/88; 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 388-95-400 Medically needy--Eligibility determination--Institutional. (1) The department shall consider individuals institutionalized if they reside in a medical facility at least a full calendar month.

(a) SSI/SSP-related individuals in medical facilities are medically needy if their gross income exceeds three hundred percent of the SSI benefit (SSI cap). AFDC-related clients or FIP enrollees in medical facilities are medically needy if countable income exceeds the one-person AFDC or FIP grant standard.

(b) The department shall determine countable income of a medically needy applicant residing in a nursing home by deducting the following amounts from gross income:

(i) Amounts that would be deducted in determining eligibility for AFDC, FIP, or SSI/SSP.

(ii) Previously incurred medical expenses not subject to third-party payment and which are the current liability of the applicant.

(c) The department shall determine nursing home residents eligible if their countable income is less than

the department's contracted rate plus verifiable recurring medical expenses. These individuals shall participate in the cost of their nursing home care per WAC 388-95-360 for post-eligibility allocation of income.

(d) The department shall determine applicants for the medically needy program ineligible if countable income is above the private nursing home rate plus verifiable recurring medical expenses.

(e) The department shall determine eligibility for individuals with countable income below the private nursing home rate plus recurring medical expenses, but above the department's contracted rate plus medical expenses as follows:

(i) Such applicants shall 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 shall require spenddown of all income remaining after allocating income per subdivision (e)(i) above. Coupons shall be issued only after spenddown has been met; and

(iii) Certification for nursing home care for such individuals shall be on a three-month basis. Spenddown of nonnursing home medical expenses shall be on a three-month basis.

(f) Absence of not more than fourteen consecutive days from an institutional living arrangement shall not interrupt an individual's institutional status.

(i) A transfer between institutions shall not change institutional status.

(ii) A transfer from a hospital to a nursing home and discharge within the same calendar month shall not constitute continuous institutional status.

(2) The department shall use other SSI financial criteria for consideration of resources as defined in WAC 388-95-380 and 388-95-390.

(3) The department shall determine eligibility for individuals who reside in a medical facility less than a full calendar month as for a noninstitutionalized person.

[Statutory Authority: RCW 74.08.090. 88-17-062 (Order 2672), § 388-95-400, filed 8/17/88; 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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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" means 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" means 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" means 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" means 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" means 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" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles. "Assets" also include certain deferred charges that are not resources but are recognized and measured in accordance with generally accepted accounting principles.

(8) "Bad debts" means amounts considered to be uncollectable from accounts and notes receivable.

(9) "Beds" means, unless otherwise specified, the number of set-up beds in the nursing home, not to exceed the number of licensed beds.

(10) "Beneficial owner" means 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" means the recording of an expenditure as an asset.

(12) "Capitalized lease" means 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" means 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" means 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 business enterprise is transferred by the contractor to another party;

(iii) Where the contractor is a partnership, any event occurs which dissolves the partnership;

(iv) 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; or

(v) Any other event occurs which results in a change of operating entity.

(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; or

(iii) The real property or personal property assets associated with the nursing home change ownership or are leased, or a lease of them is terminated, without a change of operating entity.

(15) "Charity allowances" means reductions in charges made by the contractor because of the indigence or medical indigence of a patient.

(16) "Contract" means a contract between the department and a contractor for the delivery of SNF or ICF services to medical care recipients.

(17) "Contractor" means 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" means 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" means the local community services office of the department.

(20) "Department" means the department of social and health services (DSHS) and employees.

(21) "Depreciation" means 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" means 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" means an individual, partnership, corporation, or any other association of individuals capable of entering enforceable contracts.

(24) "Equity capital" means 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" means a medical care recipient determined by the department to require exceptionally heavy care.

(26) "Facility" means 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" means 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" means 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" means 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" means accounting principles approved by the financial accounting standards board (FASB).

(31) "Generally accepted auditing standards" means auditing standards approved by the American Institute of Certified Public Accountants (AICPA).

(32) "Goodwill" means 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" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.

(34) "ICF" means, 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" means a fund which is regularly replenished in exactly the amount expended from it.

(36) "Interest" means the cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

(37) "Intermediate care facility" means a licensed facility certified to deliver intermediate care services to medical care recipients.

(38) "Joint facility costs" means any costs representing expenses incurred which benefit more than one facility, or one facility and any other entity.

(39) "Lease agreement" means 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" means the classification of types of services provided to patients by a contractor, e.g., skilled nursing care or intermediate care.

(41) "Medical care program" means medical assistance provided under RCW 74.09.500 or authorized state medical care services.

(42) "Medical care recipient" means an individual determined eligible by the department for the services provided in chapter 74.09 RCW.

(43) "Multiservice facility" means 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" means the historical cost of an asset less accumulated depreciation.

(45) "Net invested funds" means 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) "Nonadministrative wages and benefits" means wages, benefits, and corresponding payroll taxes paid for nonadministrative personnel, not to include administrator, assistant administrator, or administrator-in-training.

(47) "Nonallowable costs" means same as "unallowable costs."

(48) "Nonrestricted funds" means funds which are not restricted to a specific use by the donor, e.g., general operating funds.

(49) "Nursing home" means a home, place, or institution, licensed in accordance with chapter 18.51 RCW, in which skilled nursing and/or intermediate care services are delivered.

(50) "Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

(51) "Owner" means a sole proprietor, general or limited partner, or beneficial interest holder of five percent or more of a corporation's outstanding stock.

(52) "Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form which such beneficial ownership takes.

(53) "Patient day" means 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.

(54) "Per diem (per patient day) costs" means total allowable costs for a fiscal period divided by total patient days for the same period.

(55) "Professionally designated real estate appraiser" means 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.

(56) "Prospective daily payment rate" means 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.

(57) "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.

(58) "Recipient" means a medical care recipient.

(59) "Records" means 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.

(60) "Regression analysis" means a statistical technique through which one can analyze the relationship between a dependent or criterion variable and a set of independent or predictor variables.

(61) "Related care" means 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.

(62) "Related organization" means 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.

(63) "Relative" means 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.

(64) "Restricted fund" means 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.

(65) "Secretary" means the secretary of the department of social and health services (DSHS).

(66) "Skilled nursing facility" means a licensed facility certified to deliver skilled nursing care services to medical care recipients.

(67) "SNF" means 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.

(68) "Start-up costs" means 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.

(69) "Title XIX" means the 1965 amendments to the Social Security Act, P.L. 89-07, as amended.

(70) "Unallowable costs" means costs which do not meet every test of an allowable cost.

(71) "Uniform chart of accounts" means a list of account titles identified by code numbers established by the department for contractors to use in reporting costs.

(72) "Vendor number" means a number assigned to each contractor delivering care services to medical care recipients.

(73) "Working capital" means 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: 1987 c 476. 88-01-126 (Order 2573), § 388-96-010, filed 12/23/87. 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 388-96-026 Projected budget for new contractors. (1) Each new contractor shall submit a projected budget to the department at least sixty days before its contract becomes effective. For purposes of this section, the department shall consider a "new contractor" as 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:

(a) Cover the twelve months immediately following the date the contractor enters the program;

(b) Be certified by the new contractor;

(c) Be prepared on forms and in accordance with instructions provided by the department; and

(d) 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:

(a) Have a beneficial ownership interest in the current operating entity or the land, building, or equipment of the facility; or

(b) Have a beneficial ownership interest in the purchasing or leasing entity.

[Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-026, filed 12/21/88. 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 388-96-107 Requests for extensions. (1) A contractor may request in writing an extension for submitting cost reports. Contractor requests shall:

(a) Be addressed to the manager, residential rates program;

(b) State the circumstances prohibiting compliance with the report due date; and

(c) Be received by the department at least ten days prior to the due date of the report.

(2) The department may grant two extensions of up to thirty days each, 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 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-107, filed 12/21/88. 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 388-96-204 Field audits. (1) The department shall conduct a field audit of all cost reports for calendar year 1982.

(2) The department may have auditors employed by the department or under contract field audit cost reports for years subsequent to 1982.

(3) Beginning with field audits for calendar year 1983, the department shall audit up to one hundred percent of submitted contractor cost reports and patient care trust fund accounts.

(4) The department may audit any or all schedules of a facility's cost report. The department shall audit the cost report 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) To assure the accuracy of cost reports, the department or an auditor under contract with the department may require a contractor to submit for departmental review any underlying financial statements or other records including income tax returns relating to the cost report directly or indirectly.

(7) The department shall audit all submitted contractor cost reports of such facilities as follows:

(a) The department shall audit facilities terminating their Medicaid service contracts with the department 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) The department shall audit facilities contracting in any given calendar year for that partial or full year, and facilities contracting for the first time for the first full calendar year;

(c) The department shall audit 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 for:

(i) The year such investigation is commenced;

(ii) Each year the investigation is continued;

(iii) The year the investigation is concluded; and

(iv) Two full calendar years following the year the investigation is terminated.

(d) The department shall audit facilities that the manager, residential rate program, aging and adult services, requests 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, the department shall audit such facility as provided in subsection (7) of this section.

(9) The department shall audit patient care trust fund accounts annually if:

(a) Two or more findings were reported in the previous trust fund audit of a facility, or

(b) 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) The department may select for audit on a random or other basis reported costs and trust fund accounts of facilities.

[Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-204, filed 12/23/87. 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 388-96-217 Civil fines. (1) The department may fine a contractor or ex-contractor up to one thousand dollars for:

(a) Failure to file a mathematically accurate and complete cost report, including a final cost report, on or prior to the applicable due date established by this chapter or authorized by extension granted in writing by the department; or

(b) Failure to permit an audit authorized by this chapter or to grant access to all records and documents deemed necessary by the department to complete such an audit.

(2) Notice of a fine assessed pursuant to subsection (1) of this section shall be sent certified mail return receipt requested to the contractor, administrator, or ex-contractor and shall become effective unless an acceptable cost report is received by the department or an audit is allowed or access to documentation is allowed, as applicable, within two weeks after notification. Further, each day after the two-week period subsequent to notification has expired that compliance is not forthcoming shall constitute a separate violation subject to a maximum fine of one thousand dollars.

[Statutory Authority: RCW 74.46.800, 87-09-058 (Order 2485), § 388-96-217, filed 4/20/87.]

WAC 388-96-221 Preliminary settlement. (1) In the proposed preliminary settlement submitted pursuant to WAC 388-96-220(2), a contractor 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. The contractor shall take into account all authorized shifting, cost savings, and upper limits to rates on a cost center basis.

(2) Within one hundred twenty days after a proposed preliminary settlement is received, the department shall:

(a) Review proposed preliminary settlement for accuracy, and

(b) 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, by cost center, a preliminary settlement report fully substantiating 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, the department shall not review a preliminary settlement report.

(4) If no audit is scheduled by the department or if a scheduled audit is not performed within two years of the scheduled date, the department shall perform the preliminary settlement review described in this section with the following exceptions:

(a) For cost centers, the department shall use desk-reviewed costs as the contractor allowable costs for the reporting period;

(b) The department shall calculate the variable portion of return on investment as calculated in the prospective rate;

(c) The department shall base the financing allowance portion of return on investment on audited costs in compliance with provisions contained in this chapter. If audited costs are not available, the department shall use the financing allowance used for rate setting. If an audited financing allowance is later determined, the department shall revise the final settlement to reflect audited financing allowance if payment is changed by \$1,000 or more; and

(d) When a complete audit was not performed and audited information is needed for purposes of calculating return on investment, the department may do a partial audit of current or prior year cost report.

[Statutory Authority: 1987 c 476, 88-01-126 (Order 2573), § 388-96-221, filed 12/23/87. 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 department shall prepare the final settlement 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. For the final settlement report, the department shall compare:

(a) The prospective rate 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

(b) The contractor's audited allowable costs for the reporting period.

The department shall take into account all authorized shifting, cost savings, and upper limits to rates on a cost center basis. If the contractor is pursuing in good faith an administrative or judicial review or appeal of 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 composed of two parts:

(a) One relating to January 1, 1981, through June 30, 1981; and

(b) One relating to July 1, 1981, through December 31, 1981.

(3) For the first six months of 1981, the department shall compute the settlement in accordance with 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).

(4) For the second six months of 1981, the department shall compute the settlement 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.

(5) 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, the department shall not review a final settlement report.

(6) The department shall reopen a final settlement if it is necessary to make adjustments based upon findings resulting from an audit performed pursuant to RCW 74.46.105. The department may also reopen a final settlement 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: 1987 c 476. 88-01-126 (Order 2573), § 388-96-224, filed 12/23/87. 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, a contractor may shift savings and/or overpayment in a cost center to cover a deficit and/or underpayment in another cost center up to the amount of the savings, provided:

(1) Contractors may not shift more than twenty percent of the rate in a cost center into that cost center;

(2) Contractors may not shift into the property cost center;

(3) Beginning January 1, 1988, contractors may not shift out of the nursing services cost center;

(4) Beginning January 1, 1988, contractors may shift savings and/or overpayments in the food cost center only to cover deficits and/or underpayments in the nursing services cost center; and

(5) Beginning January 1, 1988, contractors shall shift payments in the enhancement cost center shown to have been spent for legislatively authorized enhancements to nonadministrative wages and benefits to the nursing services and administration and operations cost centers, as appropriate. Such funds shall be shifted for no other purpose.

[Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-226, filed 12/23/87. 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) Contractors shall refund all payments in excess of allowable costs:

(a) Received prior to July 1, 1983;

(b) For medical care recipients; and

(c) For patient care, food, administration and operations, and property cost areas, taking into account any authorized shifting.

(2) Beginning July 1, 1983, contractors shall be permitted to retain a portion of payments received in the administration and operations and property cost areas 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) Contractors may not retain cost savings for calendar year 1985 and subsequently 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) The department shall recover cost savings attributable to any industrial insurance dividend or premium discount under RCW 51.16.035 in proportion to the ratio of medical care recipients to other patients at the facility.

(4) For the 1983 cost reporting period, the department shall compute cost savings but shall prorate allowable savings 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.

(5) The department shall compute cost savings calculated for the final settlement on closing cost reports using property costs without consideration of any gain or loss on the sale of assets in the report year.

[Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-228, filed 12/23/87. 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. Contractors shall refund to the department funds reimbursed in the enhancement cost center, but not spent in the legislatively authorized manner.

(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) A facility pursuing a timely filed administrative or judicial remedy in good faith regarding a proposed settlement report need not refund overpayments. The department shall not 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, 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: 1987 c 476, 88-01-126 (Order 2573), § 388-96-229, filed 12/23/87. Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-229, filed 9/16/83.]

WAC 388-96-366 Records for recipient moneys. (1)

The provider shall establish and maintain as a service to the recipients a bookkeeping system, incorporated in the business records and adequate for audit, for all recipient moneys entrusted to and received by the facility for the recipients.

(2) The bookkeeping system must include any recipient who is:

(a) Incapable of handling his or her 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 or her 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.

(5) The contractor shall further maintain, adequate for audit, a written record for each recipient of all personal property deposited with the contractor for safekeeping by or for a recipient and shall issue or obtain

written receipts upon taking possession or disposing of such property, retaining copies, and/or originals of such receipts.

[Statutory Authority: RCW 74.46.800, 87-09-058 (Order 2485), § 388-96-366, filed 4/20/87; Order 1168, § 388-96-366, filed 11/3/76; Order 1114 § 388-96-366, filed 4/21/76.]

WAC 388-96-384 Liquidation of trust fund. (1) Expired patient. The provider shall 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 contractor shall contact the CSO 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 shall make a reasonable attempt to locate the missing patient. This includes contacting:

- (i) Friends,
- (ii) Relatives,
- (iii) Police,
- (iv) The guardian, and
- (v) The community services office in the area.

(b) If the patient cannot be located after ninety days, the nursing home shall notify the department of revenue of the existence of "abandoned property," outlined in chapter 63.28 RCW. The nursing home shall deliver to the department of revenue the balance of the patient's trust fund account within twenty days following such notification.

(3) Prior to the sale or other transfer of ownership, the contractor shall:

(a) Provide each resident or resident representative with a written accounting of any personal funds held by the contractor;

(b) Provide the new owner with a written accounting of all resident funds being transferred; and

(c) Obtain a written receipt for those funds from the new owner.

[Statutory Authority: 1987 c 476, 88-01-126 (Order 2573), § 388-96-384, filed 12/23/87. 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 388-96-502 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. Such goods and services include, but are not limited to, compensation to administrative personnel and management fees in excess of limits established in this chapter.

[Statutory Authority: 1987 c 476, 88-01-126 (Order 2573), § 388-96-502, filed 12/23/87. 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 388-96-505 Offset of miscellaneous revenues.

(1) The contractor shall reduce allowable costs 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, the department shall not deduct from the allowable costs of a nonprofit facility unrestricted grants, gifts, and endowments, and interest therefrom.

(2) The contractor shall reduce allowable costs 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 not included in SNF or ICF services (e.g., costs of vending machines and services specified in chapter 388-86 WAC not included in SNF or ICF services) are nonallowable costs.

[Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-505, filed 12/23/87. 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 388-96-533 Maximum allowable compensation of certain administrative personnel. (1) The department shall allow costs of compensation for administrative personnel, subject to the limits promulgated pursuant to subsection (5) of this section.

(2) The department shall allow 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) 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 shall be allowable only if the department is given written notice of the administrator's employment within ten days after the employment begins.

(3) The department shall allow total compensation of not more than one full-time licensed assistant administrator 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) The department shall allow total compensation of not more than one full-time registered administrator-in-training 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 1987

Bed Size	
1 - 79	\$33,672
80 - 159	\$37,265
160 and up	\$39,615

(6) The department shall determine maximum total compensation for licensed administrators of nursing facilities in the various bed size categories in subsequent years based on tables to be issued annually in writing. 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, the department shall allow compensation at the lower of:

(a) Actual compensation received, or

(b) The appropriate amount in the table promulgated in subsection (5) of this section:

(i) Multiplied by the actual hours worked, plus reasonable vacation, holiday, and sick time normally available to employees working similar hours; and

(ii) Divided by forty hours per week for each week covered by the cost report. Further discounting is required if the person was not 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. The contractor shall include in such records verification of the actual hours of service performed for the nursing home.

(9) The department shall limit total reimbursement for administrative and management services to allowable compensation for administrative personnel set forth in this section. The department shall apply this policy regardless of the provisions of any employment, management or consultation agreement, or other arrangement

existing between the contractor and persons or organizations providing such services. The department shall further limit reimbursement for payroll taxes for administrative personnel to such taxes associated with allowable compensation only for administrative personnel as set forth in this section.

(10) The department shall not consider costs of an administrator-in-training for the purpose of setting the administration and operations prospective rate. The department shall reimburse the costs of an approved administrator-in-training program by an adjustment to current rate. To obtain an adjustment, the contractor shall submit a request for an increase in current rate together with necessary documentation which shall include:

(a) A copy of the department of licensing approval of the administrator-in-training program, and

(b) 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 department shall reduce the current rate by an amount corresponding to the cost of the program.

[Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-533, filed 12/21/88. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-533, filed 12/23/87. 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 representing allocations of joint facility costs; and

(b) The methodology of the allocation utilized.

(2) The contractor shall demonstrate in such disclosure:

(a) The services involved are necessary and non-duplicative; and

(b) Costs are allocated in accordance with benefits received from the resources represented by those costs.

(3) The contractor shall make such disclosure not later than September 30th for each year; except, a new contractor shall submit the first year's disclosure together with the submissions required by WAC 388-96-026.

(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 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: 1987 c 476. 88-01-126 (Order 2573), § 388-96-534, filed 12/23/87. 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 managing the nursing home as an agent of the contractor, the contractor shall send a copy of the agreement to the department at least sixty days before the agreement is to become effective. A contractor shall send a copy of any amendment to a management agreement to the department at least thirty days in advance of the date the amendment is to become effective. The department shall not allow management fees for periods prior to the time the department receives a copy of the applicable agreement. When necessary for the health and safety of medical care recipients, the department may waive the sixty-day notice requirement in writing.

(2) The department shall allow management fees only if:

(a) A written management agreement both:

(i) Creates a principal and/or agent relationship between the contractor and the manager; and

(ii) Sets forth the items, services, and activities to be provided by the manager.

(b) Documentation demonstrates the services contracted for were actually delivered.

Fees are allowable only for necessary, non-duplicative services.

(3) Allowable fees for general management services, including corporate or business entity management and board of director's fees and including management fees not allocated to specific services, 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 shall 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 department shall comply with WAC 388-96-534 in measuring such costs.

(5) Central office costs, owner's compensation, and other fees or compensation, including joint facility costs, for general administrative and management services, including the management expense 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 shall be considered 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 shall be considered compensation. Bonuses paid to employees:

(a) At a contractor's central office or elsewhere other than at the nursing facility, and

(b) 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: 1987 c 476. 88-01-126 (Order 2573), § 388-96-535, filed 12/23/87. 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 388-96-559 Depreciation base. (1) Effective January 1, 1985, the total depreciation base shall be the lowest of:

(a) The contractor's appraisal, if any;

(b) The department's appraisal obtained through the department of general administration of the state of Washington, if any; or

(c) The historical purchase cost of the contractor, or lessor if the assets are leased by the contractor, in acquiring ownership of 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 any contractor. Such accumulated depreciation is to be measured in accordance with subsection (5) of this section and WAC 388-96-561, 388-96-565, and 388-96-567.

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) Unless otherwise provided or limited by this chapter or by chapter 74.46 RCW, the department shall, in determining the total depreciation base of a real or personal asset owned or leased by the contractor, deduct depreciation relating to all periods subsequent to the more recent of:

(a) The date such asset was first used in the medical care program; or

(b) The most recent date such asset was acquired in an arm's-length purchase transaction which the department is required to recognize for Medicaid cost reimbursement purposes.

No depreciation shall be deducted for periods such asset was not used in the medical care program or was not used to provide nursing care.

(3) The department may 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 if:

(a) The department challenges the historical cost of an asset; or

(b) The contractor cannot or will not provide the historical cost of a leased asset and the department is unable to determine such historical cost from its own records or from any other source.

The contractor may allocate or reallocate values among land, building, improvements, and equipment in accordance with the department's appraisal.

If an appraisal is conducted, the depreciation base of the asset will not exceed the fair market value of the asset. An appraisal conducted by or through the department of general administration shall be final unless the appraisal is shown to be arbitrary and capricious.

(4) For leased assets, the department may examine documentation in its files or otherwise obtainable from any source to determine:

(a) The lessor's purchase acquisition date; or

(b) The lessor's historical cost at the time of the last arm's-length purchase transaction.

If the department is unable to determine the lessor's acquisition date by review of its records or other records, the department, in determining fair market value as of such date, may use the construction date of the facility, as found in the state fire marshal's records or other records, as the lessor's purchase acquisition date of leased assets.

(5) 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.

(6) If a contractor cannot or will not provide the lessor's purchase acquisition cost of assets leased by the contractor and the department is unable to determine historical purchase cost from another source, the appraised asset value of land, building, or equipment, determined by or through the department of general administration shall be adjusted, if necessary, 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 (8) of this section, the *Marshall and Swift Valuation Guide* will be used to adjust, if necessary, 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.

(7) If depreciable assets are acquired by purchase which were used in the medical care 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 such 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 used in the medical care program or were not in use in or as a nursing care facility.

(8)(a) Subsection (7) of this section shall not apply to the most recent arm's-length purchase acquisition if it occurs at least ten years after the previous arm's-length transfer of ownership nor shall subsection (7) of this section apply to the first arm's-length purchase 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 as of the date of purchase of the assets determined by an appraisal conducted by or through the department of general administration or the owner's acquisition cost of each asset, land, building, or equipment. An appraisal conducted by or through 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 (7) of this section to apply without exception to acquisitions occurring on or after July 18, 1984, except as provided in subsections (8)(b) and (9) of this section.

(b) Subsection (8)(a) shall apply, however, to transfers of ownership of assets:

(i) Occurring prior to January 1, 1985, if the costs of such assets have never been reimbursed under Medicaid cost reimbursement on an owner-operated basis or as a related party lease; or

(ii) Pursuant to written purchase and sale agreements dated prior to August 1, 1984, which are documented and submitted to the department prior to January 1, 1988.

(9)(a) In the case of assets leased by the same contractor since January 1, 1980, in an arm's-length lease, and purchased by the lessee/contractor, the lessee/contractor shall have the option to have the:

(i) Provisions of subsection (8) of this section apply to the purchase; or

(ii) Reimbursement for property and return on investment continue to be calculated pursuant to the provisions contained in RCW 74.46.530 (1)(e) and (f) and WAC 388-96-754(5). Reimbursement shall be based upon provisions of the lease in existence on the date of the purchase.

(b) The lessee/contractor may select the option in subsection (9)(a)(ii) of this section only if the purchase date meets one of the following criteria:

(i) The purchase date is after the lessor has declared bankruptcy or has defaulted in any loan or mortgage held against the leased property;

(ii) The purchase date is within one year of the lease expiration or renewal date contained in the lease;

(iii) The purchase date is after a rate setting for the facility in which the reimbursement rate set, pursuant to this chapter and pursuant to chapter 74.46 RCW, no longer is equal to or greater than the actual cost of the lease; or

(iv) The purchase date is within one year of any purchase option in existence on January 1, 1988.

(10) 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 purchase acquisition date.

[Statutory Authority: RCW 74.46.800. 88-16-079 (Order 2660), § 388-96-559, filed 8/2/88; 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 388-96-565 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. Lives 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 building life a contractor may use is thirty years, provided that, in cases of newly constructed buildings containing newly licensed nursing home beds, the shortest lives shall be the following for construction class as defined and described in the marshall valuation service published by the marshall swift publication company: A or B class—forty-five years; C class—thirty-five years; and D class—thirty years.

(2) The contractor shall measure lives 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 by purchase of the asset, whichever is more recent. The contractor shall extend lives to reflect periods, if any, during which assets were not used to provide nursing care or were not used in the medical care program.

(3) Contractors shall depreciate building improvements over the remaining useful life of the building, as modified by the improvement, but not less than fifteen years.

(4) Improvements to leased property which are the responsibility of the contractor under the terms of the lease shall be depreciated over the useful life of the improvement.

(5) A contractor may change the estimate of an asset's useful life to a longer life for purposes of depreciation.

[Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-565, filed 12/21/88. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-565, filed 4/20/87; 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 388-96-585 Unallowable costs. (1) The department shall not allow costs if not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) The department shall include, but not limit unallowable costs to the following:

(a) Costs of items or services not covered by the medical care program. Costs of nonprogram items or services 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 inconsistent with applicable standards, criteria, or plans. If the contractor did not give the department timely notice of a proposed capital expenditure, all associated costs shall 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, the department shall allow bad debts of Title XIX recipients only if:

(i) The debt is related to covered services;

(ii) It arises from the recipient's required contribution toward the cost of care;

(iii) The provider can establish reasonable collection efforts were made;

(iv) The debt was actually uncollectible when claimed as worthless; and

(v) 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. The department shall compensate a contractor for bad debts of Title XIX recipients at final settlement through the final settlement process only.

(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 on an equal or fair basis in terms of costs to employees and benefits commensurate to such costs.

(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:

(i) 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

(ii) In connection with a fair hearing, a final administrative decision has not been rendered; or

(iii) In connection with a fair hearing, related costs are not reported as unallowable and identified by fair hearing docket number in the period they are incurred if no final administrative decision has been rendered at the end of the report period; or

(iv) In connection with a fair hearing, 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.

(nn) Depreciation expense in excess of twenty-five hundred dollars per year for passenger cars or other vehicles primarily used for the administrator, facility staff, or central office staff.

(oo) Any costs associated with the use of temporary health care personnel from any nursing pool not registered with the director of the department of licensing at the time of such pool personnel use.

(pp) Costs of payroll taxes associated with compensation in excess of allowable compensation for administrative personnel.

[Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-585, filed 12/21/88. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-585, filed 4/20/87; 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 388-96-710 Prospective reimbursement rate for new contractors. (1) The department shall establish a prospective reimbursement rate for a new contractor within sixty days following receipt by the department of a properly completed projected budget (see WAC 388-96-026). The rate shall take effect as of the effective date of the contract.

(2) The department shall base this prospective reimbursement rate 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. This rate shall comply with all the provisions of rate setting contained in this chapter and shall comply with all lids and maximums set forth in this chapter. Subject to such provisions, lids, and maximums, the department shall follow the procedures set forth in this section.

(a) The department shall select from department records a sample comprised of all the current contractors in the same county in similar circumstances:

(i) For facilities not operated by a Medicaid contractor for the period of operation immediately prior to the effective date of the new contract, and

(ii) For new facilities going into operation for the first time. Similar circumstances shall consist of the same bed capacity, plus or minus twenty-five beds, and whether licensed or not to provide skilled nursing care or intermediate care. The department shall exclude from the sample facilities against which the department has assessed a civil penalty for health or safety violations or

proposed licensed revocation, stop placement or decertification for health or safety violations within six months preceding the effective date of the new contract. If the county-wide sample does not include at least six facilities, the department shall include in the sample all facilities in similar circumstances in the adjoining county or counties. Based upon the most recent information in its files relating to the topics set forth below, the department shall determine:

- (A) The average sample debility score;
- (B) The average sample nursing services wages and hours; and
- (C) The average sample costs for nursing services, food, and administration and operations cost centers inflated in accordance with the provisions of this chapter.

(I) Nursing services. The department shall follow the projected budget for rate setting to the extent it does not exceed the sample average wages, hours, and inflated costs plus ten percent of such wages, hours, and inflated costs. The department shall allow a budget above the sample averages plus ten percent only to the extent anticipated debility of the patient population to be served exceeds or is likely to exceed the sample average debility as demonstrated and documented by the contractor. In such cases, rate funding shall not exceed predicted staffing for the anticipated debility. The department shall determine actual debility when sufficient data is available and shall recover any overpayment under rules relating to errors and omissions.

(II) Food. The food rate shall be the rate per patient day of other Medicaid contractors established in accordance with this chapter.

(III) Administration and operations. The department shall follow the projected budget for rate setting to the extent it does not exceed:

(aa) The sample average inflated costs as determined under subsection (2)(a) of this section for administration and operations, plus

(bb) Ten percent of such costs. The department shall allow a budget above the sample average inflated costs plus ten percent only to the extent costs are likely to exceed the inflated sample average plus ten percent as demonstrated by the contractor. However, the department shall allow budgeted salaries of administrators and assistant administrators if not in excess of maximums set forth in this chapter.

(IV) Property. The property rate shall be set in accordance with the provisions of this chapter.

(V) Return on investment. The department shall set the return on investment rate in accordance with the provisions of this chapter. The department shall use budgeted food cost in computing the financing allowance to the extent it does not exceed the inflated sample average food cost. The department shall allow a budget above the inflated sample average only to the extent food cost is likely to exceed the inflated sample average as demonstrated and documented by the contractor.

(b) The department shall follow the procedures set forth in subsection (2)(a) of this section for facilities operated by a Medicaid contractor, if any, for the period of operation immediately prior to the effective date of

the new contract. However, the department shall use data used to set the preceding contractor's rate rather than data from a sample average plus ten percent. The department shall not use data used to set the preceding contractor's rate if the department has assessed a civil penalty against such contractor for health or safety violations or has proposed licensed revocation, stop placement, or decertification for health or safety violations within six months preceding the effective date of the new contract. In such cases, the department shall use sample average data.

(c) The department shall follow the procedures set forth in subsection (2)(a) of this section for existing facilities constructing additions or making renovations after obtaining certificate of need approval if:

(i) The operating entity for the period prior to the effective date of the new contract was not a Medicaid contractor; or

(ii) The department assessed a civil penalty against the facility for health or safety violations or proposed license revocation, stop-placement, or decertification for health or safety violations within six months prior to the effective date of the new contract. Otherwise, the department shall follow the procedures indicated in subsection (2)(b) of this section. However, data used to set the preceding contractor's rate shall be adjusted to reflect increased bed capacity, if any.

(3) If the department has not received a properly completed projected budget at least sixty days prior to the effective date of the contract, the department shall establish a rate based on the other factors specified in subsection (2) of this section. This initial prospective rate shall remain in effect until a prospective rate can be set according to WAC 388-96-713.

(4) If a change of ownership is not an arm's-length transaction as defined in WAC 388-96-010, the department shall set the new contractor's prospective rates in the administration and operation and property cost areas no higher than the rates of the old contractor, adjusted if necessary to take into account economic trends.

[Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-710, filed 12/23/87. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-710, filed 4/20/87. 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 388-96-716 Cost areas. A contractor's overall reimbursement rate for medical care recipients shall consist of the total of six component rates, each covering one cost area. The six cost areas are:

- (1) Nursing services;
- (2) Food;
- (3) Administration and operations;
- (4) Property;
- (5) Return on investment; and
- (6) Enhancement.

[Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-716, filed 12/23/87. 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 388-96-719 Method of rate determination.

(1) The department shall take data used in determining rates from the most recent complete, desk-reviewed annual cost report submitted by contractors.

(2) The department shall exclude data containing obvious errors from the determination of predicted costs and rate upper limits for WAC 388-96-735.

(3) The department shall apply inflation adjustments as follows:

(a) For July rate setting, a percentage adjustment determined by the legislature shall be applied to allowable costs in the nursing services and administration and operations 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 department shall reduce the inflation factor to reflect the shorter period.

(b) The department shall apply an inflation factor of 2.5 percent to the January 1, 1983, food cost area rate for all contractors to determine the July 1, 1983, food cost center rate. For July rate setting in subsequent years, the department shall apply the adjustment factor determined annually by the legislature to the January 1, 1983, rate.

(c) The department shall not adjust property, return on investment, and enhancement rates for inflation.

(4) The department shall compute the occupancy level for each facility by dividing the actual number of patient days by the product of the numbers of licensed beds and calendar days in the report period. If a facility's occupancy is below eighty-five percent, the department shall compute, per patient day, property and administration and operation prospective rates and lids utilizing patient days at the eighty-five percent occupancy level. The department shall use actual occupancy level 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:

(a) The facility may request in writing, and

(b) 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 shall be revocable effective ninety days after written notice of revocation is received from the department. No exception shall 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: 1987 c 476. 88-01-126 (Order 2573), § 388-96-719, filed 12/23/87. 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 388-96-722 Nursing services cost area rate.

(1) The department shall pay the nursing services cost area reimbursement rate for the necessary and ordinary costs of providing routine nursing and related care to recipients. The cost of one-to-one care shall include care provided by qualified therapists and their employees only to the extent the costs are not covered by Medicare, part B, or any other coverage.

(2) The department shall subject nursing service costs 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.

(3) The test for nursing staff hours referenced in subsection (2)(a) of this section shall use a regression of hours reported by facilities for registered nurses, licensed practical nurses, and nurses' assistants, including:

(a) Purchased and allocated nursing and assistant staff time, and

(b) The average Battelle patient debility score for the corresponding facilities as computed by the department. The department shall take data for the regression from:

(i) Correctly completed cost reports, and

(ii) Patient assessments completed by the department for the corresponding calendar report year and available at the time the regression equation is computed. Effective January 1, 1988, the department shall not include the hours associated with off-site or class room training of nursing assistants and the supervision of such training for nursing assistants in the test for nursing staff hours. The department shall calculate and set for each facility a limit on nursing and nursing assistant staffing hours at predicted staffing hours plus 1.75 standard errors, utilizing the regression equation calculated by the department. The department shall reduce costs for facilities with reported hours exceeding the limit by an amount equivalent to:

(A) The hours exceeding the limit;

(B) Times the average wage rate for nurses and assistants indicated on cost reports for the year in question, including benefits and payroll taxes allocated to such staff. The department shall provide contractors' reporting hours exceeding the limit 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.

(4) The test for cost increases referenced in subsection (2)(b) of this section shall compare:

(a) The percentage change in allowable nursing services cost for the facility between the most recent cost report period and the next prior cost report period;

(b) Against the percentage change in the medical care component of the consumer price index for all urban consumers between July of the most recent cost report period and July of the next prior cost report period. The department shall limit facilities reporting increases greater than the medical care component of the consumer price index 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.

[Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-722, filed 12/21/88. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-722, filed 12/23/87. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-722, filed 4/20/87; 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 388-96-745 Property cost area reimbursement rate. (1) The department shall determine the property cost area rate for each facility by dividing:

(a) The prior period depreciation costs subject to the provisions of this chapter, adjusted for any capitalized addition or replacements approved by the department, plus

(b) The retained savings from the property cost center as provided in WAC 388-96-228, by

(c) 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. The department shall not reimburse depreciation of leased office equipment.

(2) If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the department shall adjust the prior period total patient days used in computing the property cost center rate to anticipated patient day level.

(3) When a new facility is constructed after obtaining a certificate of need, the department shall determine allowable land cost and building construction cost. Reimbursement for such allowable costs, determined pursuant to the provisions of this chapter, shall not exceed the maximums set forth in this subsection and in subsections (4) and (5) of this section. The department shall determine construction types through examination of building plans submitted to the department and/or on-site inspections. The department shall use definitions and criteria contained in the *Marshall Valuation Service* published by the Marshall Swift Publication Company. Buildings of excellent quality construction shall be considered to be of good quality, without adjustment, for the purpose of applying these maximums.

(4) Construction costs shall be final labor, material, and service costs to the owner or owners and shall include:

(a) Architect's fees;

(b) Engineers' fees (including plans, plan check and building permit, and survey to establish building lines and grades);

(c) Interest on building funds during period of construction and processing fee or service charge;

(d) Sales tax on materials;

(e) Site preparation (including excavation for foundation and backfill);

(f) Utilities from structure to lot line;

(g) Contractors' overhead and profit (including job supervision, workmen's compensation, fire and liability insurance, unemployment insurance, etc.); and

(h) Other items included by the marshall swift valuation service when deriving the calculator method costs.

The department shall allow such construction costs, at the lower of actual costs or the maximums shown in the following tables, adjusted to the average date of construction for any changes in construction costs shown by relevant cost indexes published by marshall swift. The average date of construction shall be the midpoint date between award of the construction contract and completion of construction.

BASE COSTS PER BED FOR ALL BEDS IN THE FACILITY BY FACILITY CLASS, QUALITY, AND SIZE:

Class and Quality	0 to 60 Beds	61 to 120 Beds	Over 120 Beds
A-good	\$50,139	42,079	39,006
A-average	40,967	34,381	31,870
B-good	48,104	40,371	37,422
B-average	39,786	33,389	30,951
C-good	35,939	30,161	27,959
C-average	27,924	23,435	21,723
C-low	22,019	18,479	17,130
D-good	32,622	27,377	25,378
D-average	25,221	21,167	19,621
D-low	19,796	16,613	15,400

ADDITIONS TO BASE COSTS BY FACILITY CLASS, QUALITY, AND SIZE:

Class and Quality	Add to Base Cost for All Facilities	Add for Each Bed from 61 to 120 Beds	Add for Each Bed Over 120 Beds
A-good	\$239,773	2,810	1,990
A-average	195,908	2,296	1,626
B-good	230,041	2,696	1,910
B-average	190,261	2,230	1,579
C-good	171,866	2,014	1,427
C-average	133,537	1,565	1,108
C-low	105,299	1,234	874
D-good	156,003	1,828	1,295
D-average	120,612	1,413	1,001
D-low	94,667	1,109	786

(5) Subject to provisions regarding allowable land contained in this chapter, allowable costs for land shall be the lesser of:

(a) Actual cost per square foot, or

(b) The average per square foot land value of the ten nearest urban or rural nursing homes at the time of purchase of the land in question. The average land value shall depend on classification of the home in question, assessed for purposes of taxation.

(6) If allowable costs for construction or land are determined to be less than actual costs pursuant to subsection (3) and (4) of this section, the department may increase the amount if the owner or contractor is able to show unusual or unique circumstances having substantially impacted the costs of construction or land. Actual costs shall be allowed to the extent they resulted from

such circumstances up to a maximum of ten percent above levels determined under subsections (3) and (4) for construction or land. An adjustment under this subsection shall be granted only if requested by the contractor. The contractor shall submit documentation of the unusual circumstances and an analysis of their financial impact with the request.

[Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-745, filed 12/23/87. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-745, filed 4/20/87. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-745, 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) The department shall determine the financing allowance by:

(a) 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, the department will estimate annual patient days and working capital costs for a full year based upon data in the cost report. If a capitalized addition or retirement of an asset results in a different licensed bed capacity during the ensuing period, the department shall adjust the prior period total patient days used in computing the financing and variable return allowances to anticipated patient day level; and

(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 per this chapter.

(3) The department shall determine the variable return allowance 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. In the case of a new contractor, property and administration and operations cost levels actually used to set the initial rate shall be used for the purpose of ranking the new contractor. The department shall adjust the new contractor's costs to the cost year used to establish the most recent variable return ranking for all providers using inflation factors authorized by provisions of this chapter.

(b) The department shall compute the variable return allowance 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. The department shall assign facilities in the highest quarter 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 agreement existing on January 1, 1980, 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, per a

provision of the lease agreement existing on January 1, 1980, 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 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-754, filed 12/21/88. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-754, filed 4/20/87; 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 388-96-756 Enhancement cost area rate. (1) The enhancement cost area reimbursement rate shall reimburse for specific legislatively authorized enhancements for nonadministrative wages and benefits when funds have been appropriated for such enhancements by the legislature.

(2) Based on information provided by contractors, in the form required by the department and certified by the contractor or nursing home administrator, the department shall identify nursing homes paying wages less than the minimum wages established in WAC 388-96-768. The contractor shall submit documentation and verification of actual hours reimbursed for regular, vacation, sick, holiday, and over time. Documentation shall include a written policy regarding payment of vacation, sick, holiday, and over time. Effective January 1, 1988, and January 1, 1989, the department shall grant a prospective rate revision to fund the additional cost of increasing wages to the minimum established in WAC 388-96-768.

(3) On or before January 1, 1988 and January 1, 1989, contractors shall increase wages below the minimum wages established in WAC 388-96-768 by any inflation adjustment granted under WAC 388-96-719, beginning with the July 1, 1987 inflation adjustment.

(4) Reimbursement for minimum hourly wage requirements shall be based on the highest level paid in any of the three preceding cost years. Contractors shall provide justification if average hourly wages, as reported to the department on cost report schedules, decrease over time.

(5) Effective January 1, 1990, providers shall pay wages equal to those established in WAC 388-96-768 and shall be reimbursed for this cost only through the prospective reimbursement rate.

(6) Effective January 1, 1988 and January 1, 1989, the department shall allocate to all facilities a proportionate share of dollars appropriated by the legislature to enhance nonadministrative wages, benefits, and/or hours above the moneys necessary to fund the minimum wage established in WAC 388-96-768. The department shall not reimburse or allocate dollars in excess of those specified in the biennial appropriation. Dollars shall be allocated to each home based on hours worked by employees in the home earning more than the minimum wage established in WAC 388-96-768.

(7) Beginning October 1, 1987, the department may verify forms submitted by facilities for calculation of enhancement cost center reimbursement rates.

[Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-756, filed 12/23/87.]

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 hours of nursing services care needed are at least twice the contractor's current per patient average of hours of nursing services.

(2) The contractor shall apply for an individual rate for an exceptionally heavy care recipient in accordance with instructions furnished by the department.

(3) When the department grants an individual rate for an exceptionally heavy care recipient, it shall be 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. The department shall compute the rate to cover the projected costs of providing necessary nursing care for the recipient in excess of the contractor's regular per patient day nursing services rate.

(4) The department shall notify the contractor 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 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-763, filed 12/21/88. 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 388-96-768 Minimum wage. Effective January 1, 1988, contractors shall adjust and maintain wages for all employees to conform to no less than the minimum hourly wage established by the legislature. This wage is four dollars and seventy-six cents an hour beginning January 1, 1988, and five dollars and fifteen cents an hour beginning January 1, 1989. If moneys are appropriated by the legislature, costs to prospectively fund these minimum wage requirements shall be reimbursed in the enhancement cost center.

[Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-768, filed 12/23/87.]

WAC 388-96-771 Receivership. (1) If the nursing home is providing care to recipients of state medical assistance, the receiver shall:

(a) Become the Medicaid contractor for the duration of the receivership period;

(b) Assume all reporting responsibilities for new contractors;

(c) Assume all other responsibilities for new contractors set forth in this chapter; and

(d) Be responsible for the refund of Medicaid rate payments in excess of costs during the period of receivership.

(2) In establishing the prospective rate during receivership the department shall consider:

(a) Compensation, if any, ordered by the court for the receiver. Such compensation may already be available to the receiver through the rate as follows:

(i) The return on investment, or

(ii) The administrator's salary in the case of facilities where the receiver is also the administrator.

If these existing sources of compensation are less than what was ordered by the court, additional costs may be allowed in the rate up to the compensation amount ordered by the court.

(b) Start-up costs and costs of repairs, replacements, and additional staff needed for patient health, security, and welfare. To the extent such costs can be covered through return on investment, no additional monies will be added to the rate;

(c) Any other allowable costs as set forth in this chapter.

(3)(a) Upon order of the court, the department shall provide emergency or transitional financial assistance to a receiver not to exceed thirty thousand dollars.

(b) The department shall recover any emergency or transitional expenditure from revenue generated by the facility which is not obligated to the operation of the facility.

(c) If the department has not fully recovered any emergency or transitional expenditure at the termination of receivership, the department may:

(i) File an action against the former licensee or owner to recover such expenditure; or

(ii) File a lien on the facility or on the proceeds of the sale of the facility.

(4) If recommendations on receiver's compensation are solicited from the department by the court, the department shall consider the following:

(a) The range of compensation for nursing home managers;

(b) Experience and training of the receiver;

(c) The size, location, and current condition of the facility;

(d) Any additional factors deemed appropriate by the department.

(5) When the receivership terminates, the department may revise the nursing home's Medicaid reimbursement as follows:

(a) The Medicaid reimbursement rate for the former owner or licensee shall be what it was prior to receivership, unless the former owner or licensee requests prospective rate revisions from the department as set forth in this chapter.

(b) The Medicaid reimbursement rate for licensed replacement operators shall be determined consistent with rules governing prospective reimbursement rates for new contractors as set forth in this chapter.

[Statutory Authority: RCW 74.09.120. 88-06-085 (Order 2602), § 388-96-771, filed 3/2/88.]

WAC 388-96-774 Prospective rate revisions. (1) The department shall determine each contractor's reimbursement rates prospectively at least once each calendar year, to be effective July 1st. The department shall determine all prospective reimbursement rates for 1984 and thereafter using the prior year's desk-reviewed cost reports. Prospective rates shall be maximum payment rates for contractors for the periods to which they apply. The department may grant revisions for inflation only as authorized in WAC 388-96-719(3) and may grant other revisions for cost increases only as authorized in this section. The department shall not grant rate adjustments for wage increases except as authorized in WAC 388-96-756 and not for increases in use of temporary employment services providing direct patient care. This section shall apply to rate revision requests and periods subsequent to May 20, 1985.

(2) The department shall adjust rates for any capitalized additions or replacements made as a condition for licensure or certification.

(3) The department may adjust rates for the following:

(a) Variations in the distribution of patient classifications or changes in patient characteristics from:

(i) The prior reporting year, or

(ii) Those used to set the rate for a new contractor, or

(iii) Corresponding to the nursing staff funded for a new contractor.

(b) Program changes required by the department.

(c) Changes in staffing levels at a facility required by the department.

(4) Contractors requesting an adjustment shall submit:

(a) A financial analysis showing:

(i) The increased cost, and

(ii) 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 showing the changes in staffing have commenced, or other commenced or completed improvements.

(5) Contractors receiving prospective rate increases per this section shall 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:

- (a) Additional staff to be added,
- (b) Changes in Medicaid patient characteristics requiring the additional staff, and
- (c) The predicted improvements in patient care services which will result. The department shall respond to such requests within sixty days following the receipt of a properly completed request.

(7) In reviewing a request made under subsection (3) of this section, the department shall consider one or more of the following:

- (a) Whether additional staff requested by a contractor is necessary to meet patient care needs;
- (b) Comparisons of staffing patterns of facilities having similar size and patient characteristics;
- (c) The physical layout of the facility;
- (d) Nursing service planning and management for maximum efficiency;
- (e) Historic trends in underspending of a facility's nursing services component rate.
- (f) Numbers and positions of existing staff;
- (g) Increases in acuity (debility) levels of contractors' residents;

- (h) Survey, inspection of care, and department consultation results; and
- (i) Facility's ability to fund staffing request through existing nursing services and food rates.

(8) If a request made under subsection (3) of this section is approved by the department, the cost of funding the additional staff may be reduced for rate revision purposes by amounts shifted out of nursing services in 1986 or 1987, as reflected in the preliminary or final settlement reports for 1986 and 1987.

(9) The department may also adjust rates to cover costs associated with placing a nursing home in receivership for costs not covered by the rate of the former contractor, including:

- (a) Compensation of the receiver,
- (b) Reasonable expenses of receivership and transition of control, and
- (c) Costs incurred by the receiver in carrying out court instructions or rectifying deficiencies found.

(10) The department shall not grant a rate adjustment effective earlier than sixty days prior to receipt of the written request for such adjustment accompanied by all related documentation and information required by this section.

[Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-774, filed 12/21/88. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-774, filed 12/23/87. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-774, filed 4/20/87. 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 388-96-807 Charges to patients. (1) The department shall 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 means a change in his or her contribution toward the cost of care, the contractor shall report this in writing to the CSO within seventy-two hours. If necessary, the department shall make appropriate corrections in the next nursing home statement, and attach a copy of documentation supporting the change. If a contractor receives increased funds for a recipient, the nursing home shall contact the CSO within seventy-two hours.

(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 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-807, filed 12/21/88. 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 388-96-904 Administrative review process.

(1) Within thirty days after a contractor is notified of an action or determination it wishes to challenge, the contractor shall request, in writing, that the appropriate director or his or her designee review such determination. The contractor shall send the request to the office of contracts management if the challenge pertains to audit findings (adjusting journal entries or AJEs) or other audit matters. For other matters (such as rates, desk reviews, and settlements), the contractor shall send the request to the manager, residential rates program. The contractor or the licensed administrator of the facility shall:

- (a) Sign the request,
- (b) Identify the challenged determination and the date thereof, and
- (c) State as specifically as practicable the issues and regulations involved and the grounds for its contention that the determination is erroneous. The contractor shall include with the request copies of any documentation the contractor intends to rely on to support its position.

(2) After receiving a timely request meeting the criteria of this section, the department shall contact the contractor to schedule a conference for the earliest mutually convenient time. The department shall schedule the conference 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 department may conduct the conference

by telephone unless either the department or the contractor requests, in writing, 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:

(a) Any documentation requested by the department which the contractor is required to maintain for audit purposes pursuant to WAC 388-96-113, and

(b) 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, the parties shall schedule a second session of the conference 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, the director of residential rates and licensure services or designee or the director of the office of nursing home audit or designee shall furnish a written decision to the contractor within sixty days after the conclusion of the conference.

(5) A contractor, aggrieved by a decision of the director, may appeal the decision in an administrative hearing.

(a) A contractor desiring an administrative hearing shall file a written request for a hearing with the department's Office of Hearings, P.O. Box 2465, Olympia, Washington 98504. The contractor shall file the request for hearing within thirty days of the date the contractor received the decision of the director that he or she desires to appeal,

(b) Attach a copy of the director's decision being appealed to the request for hearing,

(c) Sign the request or have the licensed administrator of the facility sign it,

(d) State as specifically as practicable the issue or issues and regulation or regulations involved,

(e) State the grounds for contending the director's decision is erroneous, and

(f) Include copies of any documentation on which the contractor intends to rely to support its position with the request.

(g) 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 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-904, filed 12/21/88. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-904, filed 12/23/87. 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

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388-98-850	Imposition and payment of fines.
388-98-870	Separate violations.

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 seeking a license to operate a nursing home.

(3) "Deficiency" means any practice, action, procedure, or condition in a nursing home violating professional standards of practice, relevant statutes, or regulations and which the department documents in writing indicating the part or parts of chapters 18.51 or 74.42 RCW or rules and regulations established under them, including but not limited to chapter 248-14 WAC, not being met.

(4) "Department" means the nursing home licensing agency of the state department of social and health services.

(5) "Director" means an individual 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 or her absence.

(9) "Officer" means an individual 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 sole proprietorship, the owner, or if owned as community property, the owner and his or 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 in a partnership owning or operating a nursing home.

(12) "Plan of correction" means a written statement specifying:

- (a) How cited deficiencies will be corrected,
- (b) The date by which the correction will be made, and
- (c) Who will be responsible for assuring the correction.

(13) "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 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 required financial and personnel resources necessary to correct the deficiency; and
- (c) The minimum amount of time practicably required to correct the deficiency.

(14) "Retaliate":

(a) Retaliate against a resident means any act including, but not limited to:

- (i) Verbal or physical harassment or abuse;
- (ii) Nonmedically indicated social, dietary, or mobility restriction;
- (iii) Lessening of the level of care not medically appropriate;
- (iv) A nonvoluntary relocation within a nursing home without appropriate medical, psychosocial, or nursing justification;
- (v) Neglect or negligent treatment;
- (vi) Withholding of privileges; or
- (vii) Any infringement upon a resident's rights as described in WAC 248-14-247, occurring as a result of resident actions described in WAC 388-98-800 (2)(i).

(b) Retaliate against an employee means any act including, but not limited to, harassment, firing, demotion, disciplinary action, or nonvoluntary reassignment or re-scheduling occurring as a result of employee actions described in WAC 388-98-800 (2)(i).

(c) A rebuttable presumption is raised that retaliation has occurred if a condition described in subsection 388-98-001 (14)(a) of this section definition occurs within one year of the resident's actions described in WAC 388-98-800 (2)(i).

(15) "Stop placement" means action instituted by the department prohibiting nursing home admissions, readmissions, and transfers of individual patients.

[Statutory Authority: 1987 c 476. 87-21-017 (Order 2546), § 388-98-001, filed 10/9/87. 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 388-98-005 Receivership. (1) The department may file a petition in superior court of Thurston County, or in superior court of the county in which the nursing home is located, to establish receivership for a nursing home. The department shall allege in the petition one or more of the following conditions is present and the current operator has demonstrated an inability or unwillingness to take necessary corrective action:

(a) The nursing home is operating without a license; or

(b) The nursing home has not given the department 60 days written notice prior to its intended closure date and has not made arrangements within 30 days before closure for the orderly transfer of its residents; *Provided that*, if the nursing home has given the department 60 days prior written notice, but the department has not acted with all deliberate speed to transfer the residents, no petition for receivership shall be filed for the nursing home's failure to make arrangements for transferring residents; or

(c) A condition exists in a nursing home which demonstrates an immediate and serious threat of harm to the health, security, safety, or welfare of the residents including, but not limited to abandonment of the nursing home by the owner or operator; or

(d) The nursing home demonstrates a persistent pattern or practice of noncompliance with the requirements of chapter 18.51, 74.42 RCW, or other statutes, or standards and regulations adopted by the department designed to safeguard the health, security, or welfare of residents such that the nursing home has demonstrated a repeated inability to maintain minimum patient care standards; or

(e) The nursing home repeatedly demonstrated a limited capacity to furnish an adequate level or quality of care.

(2) If the department files a petition under the conditions described in subsection (1) of this section, the department shall request the court to:

(a) Restrain the licensee from continued operation of the nursing home; and

(b) Order the licensee to be divested of all possession and control of the nursing home including, but not limited to, all patient care records, financial records, and other records necessary for the continued operation of the nursing home, during the time the receivership is in effect; and

(c) Grant the receiver the authority to temporarily relocate some or all of the residents:

(i) If the receiver determines the resident's health, security, or welfare is jeopardized;

(ii) During the time the receivership is in effect; and

(iii) If the department concurs with the receiver's determination relocation is necessary.

(3) The department is not required to file a petition for receivership when the physical condition of the premises is such that closure of the nursing home would be more prudent than continued operation.

[Statutory Authority: Chapter 18.51 RCW. 88-06-086 (Order 2603), § 388-98-005, filed 3/2/88.]

WAC 388-98-010 List of qualified receivers. (1) The department may recruit individuals, partnerships, and corporations interested in serving as a receiver of a nursing home. Recruitment may be in the form of personal letters, radio or television announcements, or advertisements in publications determined suitable by the department.

(2) Any individual, partnership, or corporation desiring to be a receiver shall complete the sections designated by the department of an application for a nursing home license.

(3) Any individual, partnership, or corporation with experience in providing long-term health care and a history of satisfactory operation of a nursing home may submit an application to the department at any time to serve as a receiver. Applicants shall be subject to the criteria established for licensees found in Washington Administrative Code 248-14-080, except the department may waive on a case-by-case basis the requirement for having 60 days to review the application.

(4) The department shall maintain a list of qualified potential receivers. The department shall add names of qualified applicants to the list upon receipt of an application properly completed by the applicant and approved by the department. The department shall update the list by July 1 of each year. Updating shall verify:

(a) Information on the application is still current; and

(b) The individual, partnership, or corporation remains interested in serving as a receiver.

(5) Individuals, partnerships, or corporations failing to update their application as requested by the department shall not be considered as potential receivers unless a new application is submitted to the department.

(6) The department shall not consider as a receiver any person, partnership, or corporation which:

(a) Is the licensee, administrator, or partner, officer, director, managing employee, or owner of five percent or more of the assets of the nursing home subject to receivership; or

(b) Is affiliated with the nursing home subject to receivership; or

(c) Has owned or operated a nursing home that has been ordered into receivership in any state; or

(d) Has owned or operated a nursing home against which decertification action or licensure suspension or revocation proceedings have been initiated or have been in effect within two years preceding the filing of the receivership petition.

(7) The department may recommend to the court a receiver from the list. In making the recommendation, any one or more of the following factors may be considered:

(a) The potential receiver's willingness to serve as a receiver for the nursing home in question;

(b) The amount and quality of the potential receiver's experience in long term care;

(c) The quality of care, as determined by prior survey reports, provided under the potential receiver's supervision or management;

(d) The potential receiver's prior performance as a receiver;

(e) How soon the potential receiver would be available to act as a receiver;

(f) The potential receiver's familiarity and past compliance with Washington state regulations applicable to nursing homes;

(g) The potential receiver's economic potential and interest in operating the nursing home on a permanent basis;

(h) Preference may be given to potential receivers expressing an interest in the permanent operation of the nursing home.

[Statutory Authority: Chapter 18.51 RCW. 88-06-086 (Order 2603), § 388-98-010, filed 3/2/88.]

WAC 388-98-015 Duties and powers of receiver.

(1) The receiver shall protect the health, security, and welfare of the residents for the duration of the receivership. The receiver shall perform all acts reasonably necessary to ensure residents' needs are met. Such acts may include, but are not limited to:

(a) Correcting deficiencies cited by the department;

(b) Hiring, directing, managing, and discharging all consultants and employees for just cause, discharging the administrator of the nursing home, recognizing collective bargaining agreements, and settling labor disputes;

(c) Receiving and expending in a prudent and businesslike manner all revenues and financial resources of the home, provided that priority shall be given to debts and expenditures directly related to providing care and meeting residents' needs;

(d) Making necessary purchases, repairs, and replacements, provided that expenditures for purchases, repairs, or replacements in excess of five thousand dollars are approved by the court;

(e) Entering into contracts necessary for the operation of the nursing home; *Provided That*, any contracts extending beyond the period of receivership shall be approved by the court;

(f) Preparing all reports required by the department;

(g) Planning with residents and their guardians, family, or significant others, any required relocation;

(h) Meeting regularly with staff, residents, and residents' families to inform them of plans for correcting the deficiencies, progress achieved in correction, plans for facility closure and relocation, or plans for continued operation of the nursing home including the identity of the permanent operator.

(2) The receiver shall consult the court in cases of extraordinary or questionable debts incurred prior to the receiver's appointment and shall not have the power to close the home or sell any assets of the home without prior court approval.

(3) The receiver shall comply with all applicable state and federal laws and regulations. If the nursing home is certified and is providing care to medical assistance clients, the receiver shall become the Medicaid contractor for the duration of the receivership period.

(a) A receiver for a skilled or intermediate care nursing home shall be responsible for complying with the provisions of chapter 74.46 RCW and chapter 388-96 WAC.

(b) A receiver for an intermediate care facility for the mentally retarded (ICF/MR) shall be responsible for complying with the provisions of chapter 74.09 RCW and chapter 275-38 WAC.

(4) The receiver shall be responsible and liable only for the receiver's own gross negligence, intentional wrongdoing, or breach of fiduciary duty to either the residents of the nursing home or the current or former licensee or owner of the nursing home.

[Statutory Authority: Chapter 18.51 RCW. 88-06-086 (Order 2603), § 388-98-015, filed 3/2/88.]

WAC 388-98-020 Termination of receivership. (1) The department shall recommend to the court the receivership be terminated:

(a) After the end of the appointed term unless good cause is shown to continue the receivership. Good cause for continuing the receivership exists when:

(i) Returning the nursing home to its former operator would subject the residents to a threat to their health, safety, or welfare; and

(ii) A credible replacement operator has entered into an enforceable agreement to purchase or operate the nursing home by a date acceptable to the department, but has not yet taken possession or control; or

(b) When all residents have been transferred and the nursing home is closed; or

(c) When all deficiencies which threaten the health, safety, or welfare of the residents have been eliminated and the former operator or owner has agreed to conditions specified by the department regarding the continued operation of the facility; or

(d) When a new licensed operator or owner is available to assume control of the nursing home.

(2) The department shall recommend to the court that all residents be relocated and the nursing home closed when:

(a) Problems exist in the physical condition of the premises which cannot be corrected in an economically prudent manner; or

(b) The department determines the former operator or owner:

(i) Is unwilling or unable to manage the nursing home in a manner which ensures residents' health, safety, and welfare; and

(ii) Has not entered into an enforceable agreement to sell the nursing home within three months of the court's decision to grant receivership.

(3) The department may recommend to the court an alternate receiver be appointed:

(a) When the receiver is no longer willing to serve as a receiver; or

(b) If a receiver is not making acceptable progress in correcting the deficiencies in the nursing home.

[Statutory Authority: Chapter 18.51 RCW. 88-06-086 (Order 2603), § 388-98-020, filed 3/2/88.]

WAC 388-98-700 Stop placement. (1) The department shall institute a stop placement on a nursing home, effective on a date specified by the department, when the department determines:

(a) The nursing home no longer substantially meets the requirements of:

(i) 42 U.S.C. § 1395 x(j), or

(ii) 42 U.S.C. § 1396 d(c), or

(iii) Chapter 18.51 RCW, or

(iv) Chapter 74.42 RCW, or

(v) Any federal or state regulation or regulations adopted under authority of the above referenced statutes.

(b) The deficiency or deficiencies in the nursing home:

(i) Jeopardize the health and safety of the residents, or

(ii) Seriously limit the nursing home's capacity to provide adequate care.

(2) When the department has initiated a stop placement, the department may approve a readmission to the nursing home from the hospital when the department determines the readmission would be in the best interest of the individual resident seeking readmission.

(3) The department shall terminate the stop placement 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:

(i) The deficiencies necessitating the stop placement action have been corrected, and

(ii) The provider exhibits the capacity to continue to deliver adequate care and service.

(4) A nursing home provider shall have the right to an informal review to present written evidence to refute the deficiencies cited as the basis for the stop placement. If an informal review is desired, the nursing home shall request the informal review in writing within ten days of the effective date of the stop placement. The request shall be made to the director, residential rates and licensure services, aging and adult services administration.

(5)(a) The nursing home has the right to a contested case hearing to appeal a stop placement. If a hearing is requested, the nursing home shall request the hearing in writing and shall:

(i) Deliver the request by personal service or certified mail to the office of hearings, P.O. Box 2465, Olympia, WA 98504.

(A) If no informal review was requested, the nursing home shall deliver the request within ten days of the effective date of the stop placement;

(B) If an informal review was requested, the nursing home shall deliver the request within ten days of the date the informal review determination was mailed; or

(C) If an informal review was requested and the determination was personally served or orally communicated, the nursing home shall deliver the request within ten days of the date the determination was served or communicated.

(ii) Include in or with the request:

(A) A specific statement of the issue or issues and law or laws involved;

(B) The grounds for contending the stop placement is erroneous;

(C) A copy of the stop placement notice; and

(D) Either the informal review determination or a statement where an informal review has not been, and will not be, requested.

(b) The hearing shall be governed by chapters 10-08 and 388-08 WAC. If any provision of this section conflicts with chapter 388-08 WAC, the provision in this section applies. The decision making procedure shall be the initial decision, petition for review, and review-decision procedure. The administrative law and review judges shall act on stop placement cases expeditiously.

(6)(a) The department shall not delay or suspend a stop placement because the nursing home requests a contested hearing or an informal review.

(b) The stop placement shall remain in effect until:

(i) The department terminates the stop placement,

(ii) Fourteen days after a initial decision terminating the stop placement is mailed and the department does not file a petition for administrative review, or

(iii) A review decision terminating the stop placement is mailed.

[Statutory Authority: 1987 c 476. 87-21-017 (Order 2546), § 388-98-700, filed 10/9/87. 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) The department may impose civil fines in lieu of or in addition to denial, suspension, or revocation of a license.

(2) A fine of up to three thousand dollars may be imposed on the licensee when the department finds an applicant, licensee, licensee's agent, employee, or individual providing care or services within the nursing home has:

(a) Failed or refused to comply with the requirements of chapter 18.51 or 74.42 RCW or the rules and regulations established under them; or

(b) Operated a nursing home without a license, or under a revoked or suspended license; or

(c) Knowingly or with reason to know made a false statement or an omission of a material fact in the application for license or any data attached thereto, or in any matter under investigation by the department; or

(d) 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

(e) 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 or 74.42 RCW, or the rules and regulations established under them; or

(f) 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 or 74.42 RCW or the rules and regulations established under them; or

(g) Failed to report patient abuse or neglect in accordance with chapter 70.124 RCW; or

(h) Failed to pay any civil fine assessed by the department pursuant to chapter 18.51 RCW within ten days after the order imposing the fine becomes final; or

(i) Retaliated in any manner against a resident or employee of a nursing home for:

(i) Reporting any complaint to the department regarding the operation of a nursing home or the care provided in a nursing home, or

(ii) Responding to departmental inquiries regarding the operation of a nursing home or the care provided in a nursing home, or

(iii) Initiating or participating in any proceeding specified in chapter 18.51 or 74.42 RCW or rules or regulations established under them, or

(iv) Having a complaint reported to the department on his or her behalf.

(j) Discriminated against a Medicaid recipient by violating the provisions of RCW 74.42.055; or

(k) Failed to submit an acceptable plan of correction within the time frame established by the department.

(3) A licensee subject to civil fines under subsection (2)(a), (i), (j), or (k) of this section shall have a reasonable opportunity, as specified in WAC 388-98-830, to correct the deficiency before being assessed a civil fine, except as provided in subsections (4), (5), and (6) of this section.

(4) A civil fine may be assessed without prior opportunity to correct when the department determines:

(a) The deficiency results in serious harm to or death of a resident; or

(b) The deficiency constitutes a serious threat to resident life, health, or safety; or

(c) The deficiency substantially limits the nursing home's capacity to render adequate care.

(5) A licensee subject to civil fine under subsection (2)(b), (c), (d), (e), (f), (g), or (h) of this section shall not have a prior opportunity to correct the deficiency before being assessed a civil fine.

(6) The correction of a standard or condition level deficiency, as defined by the authority of Title XVIII or XIX of the Social Security Act and 42 CFR 405, subpart K, and 42 CFR 442, or a deficiency of corresponding significance under state licensure regulations, shall be maintained for a period of at least one year following the date correction was verified by the department. Failure to maintain such correction shall constitute a separation violation for each day the deficiency is not corrected and may be subject to the assessment of a separate penalty not to exceed three thousand dollars without a prior opportunity to correct the violation.

[Statutory Authority: 1987 c 476. 87-21-017 (Order 2546), § 388-98-800, filed 10/9/87. Statutory Authority: RCW 18.51.310. 80-08-027 (Order 1515), § 388-98-800, filed 6/25/80.]

WAC 388-98-830 Notification of response time. (1) Department findings shall be documented in writing and presented to the licensee or licensee's agent.

(2) The department shall obtain a plan of correction from the licensee or licensee's agent.

(a) The department may require the licensee or licensee's agent to submit an acceptable plan of correction during the survey or complaint investigation for a specific deficiency presenting an immediate danger of death or serious physical harm to any resident in the nursing home or a substantial probability that death or serious physical harm would result. Such deficiency shall be abated or eliminated as soon as possible within twenty-four hours from notification to the licensee or licensee's agents.

(b) A licensee or licensee's agent participating in the Medicare or Medicaid program shall submit a complete and acceptable plan of correction during the exit interview when there are fewer than sixty days from the exit interview to the Medicare or Medicaid certification expiration date.

(c) All licensees or licensees' agents choosing to submit a complete plan of correction during the exit interview may do so.

(d) The licensee or licensee's agent not submitting a plan of correction at the exit interview shall submit a complete plan of correction by the time and date specified by the department. The department may allow the licensee or licensee's agent up to ten calendar days from the exit conference to submit an acceptable plan of correction for deficiencies presenting neither an immediate danger nor a substantial probability of death or serious physical harm. Such deficiency shall be corrected within a reasonable time determined by the department. In no event shall the time for correction exceed sixty days.

(e) When deficiencies involve facility alterations, physical plant plan development, construction review, or certificate of need, an interim plan of correction stating the steps planned and approximate time schedule is acceptable. Updated plans shall be submitted as agreed to and as progress occurs.

(3) Upon licensee's or licensee's agent's written 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.

(4) The department shall notify the licensee or licensee's agent when the plan of correction is unacceptable. The licensee or licensee's agent shall return the revised plan of correction to the department by the date specified by the department.

[Statutory Authority: 1987 c 476, 87-21-017 (Order 2546), § 388-98-830, filed 10/9/87. 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) The department shall provide written notice of a fine by personal service or certified mail to the licensee or licensee's agent.

(2) The amount of the fine shall be based on one or more 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 degree of progress achieved in correcting the deficiency; and/or

(e) The cost to the department.

(3) The department may require assessed civil fines:

- (a) To be paid in full;
- (b) To be paid in installments; or

(c) To be spent, in whole or in part, to correct or ameliorate the deficiency or to improve nonadministrative services within the facility.

(4) The department may consider, but is not limited to considering, the following factors in deciding whether to require payment of a fine in full, to permit installment payments, or to require some or all of the fine to be applied toward improvements in the nursing home:

(a) The amount of the fine,

(b) The potential harm to the residents resulting from the method of payment, and

(c) The cost to the licensee of correcting the deficiency.

(5) Fines paid on an installment basis shall accrue interest at the rate of one percent per month.

(6) The department at its discretion, may suspend the payment of a fine or a portion thereof, for up to one year after correction has been documented by a post survey, to assure the corrections continue. If the deficiency for which the fine was assessed remains corrected throughout the period established in the suspension notice, the department shall rescind the suspended fine. If the same deficiency reoccurs any time during the period established in the suspension notice, the licensee shall pay the department triple the amount of the suspended fine.

(7) Factors which the department may consider in deciding whether to suspend all or a portion of a fine include, but are not limited to:

(a) The amount of the fine,

(b) The licensee's history of providing care, and

(c) Mitigating circumstances contributing to the deficiency.

(8) If the department suspends all or a portion of a fine, the department shall provide a written notice of suspension by personal service or certified mail to the licensee or licensee's agent. The notice shall include:

(a) The citation of the specific deficiency or deficiencies resulting in the imposition of the fine,

(b) The amount of the fine,

(c) The amount of the fine suspended, and

(d) The time frame through which correction must be maintained to avoid payment of the trebled amount of the suspended fine.

(9)(a) The written notice of a fine is an order that shall become final twenty days after the service upon the licensee or licensee's agent unless the licensee or licensee's agent requests a hearing.

(b) If no hearing is requested, the fine becomes due on the thirtieth day after notice of imposition, except for any portion of the fine ordered to be spent to correct or ameliorate the deficiency.

(c) When any portion of a fine is ordered to be spent to correct or ameliorate the deficiency:

(i) The licensee or licensee's agent shall provide the department with documentation of expenses paid, up to the amount ordered, to correct or ameliorate the deficiency. Finance charges and interest payments associated with correcting the deficiency shall not be applied toward the amount fined.

(ii) The licensee or licensee's agent shall provide the department with documentation of the expenses paid

within thirty days of the date established by the department for correcting such deficiency. If the amount of fine ordered to be applied to correcting the deficiency is greater than the amount required to correct the deficiency, the difference shall be due to the department within thirty days of the date established by the department for correcting the deficiency.

(10)(a) The licensee or licensee's agent has the right to appeal a civil fine to a contested case hearing. If a hearing is requested, the licensee or licensee's agent shall request the hearing in writing and shall:

(i) Deliver the request by personal service or certified mail to the office of hearings, P.O. Box 2465, Olympia, WA 98504, within twenty days following receipt of the notice of fine; and

(ii) Include in or with the request:

(A) A specific statement of the issue or issues and law or laws involved,

(B) The grounds for contending the civil fine is erroneous, and

(C) A copy of the notice of fine.

(b) The hearing shall be governed by chapters 10-08 and 388-08 WAC. If any provision of this section conflicts with chapter 388-08 WAC, the provision in this section applies.

(11) Any suspended fines shall become due ten working days after notice is given to the department of any change of ownership as defined in WAC 388-96-010 or as defined in WAC 275-38-001 for nursing homes certified as institutions for the mentally retarded.

(12) When any licensee fails to pay a fine imposed under this chapter within ten days after the date of the final order imposing the fine, the department may:

(a) Withhold an amount equal to the fine plus interest, if any, from the licensee's payment, or

(b) Suspend the licensee's nursing home license. Such license suspension shall continue until the fine is paid.

[Statutory Authority: 1987 c 476. 87-21-017 (Order 2546), § 388-98-850, filed 10/9/87. Statutory Authority: RCW 18.51.310. 80-08-027 (Order 1515), § 388-98-850, filed 6/25/80.]

WAC 388-98-870 Separate violations. (1) Each separate finding of a violation of a statute, rule, or regulation shall constitute a separate violation.

(2) Following the notification of a deficiency described in WAC 388-98-800 (4), (5), or (6), each day upon which the same deficiency is present, or a substantially similar action occurs, shall constitute a separate violation subject to the assessment of a separate penalty.

[Statutory Authority: 1987 c 476. 87-21-017 (Order 2546), § 388-98-870, filed 10/9/87. Statutory Authority: RCW 18.51.310. 80-08-027 (Order 1515), § 388-98-870, filed 6/25/80.]

Chapter 388-99 WAC

LIMITED CASUALTY PROGRAM--MEDICALLY NEEDED

WAC 388-99-010 Persons eligible for medically needy assistance.

- 388-99-011 Continuation of eligibility for pregnant women.
- 388-99-020 Eligibility determination--Medically needy in own home.
- 388-99-030 Allocation of excess income--Spendedown.
- 388-99-040 Availability of resources.
- 388-99-060 Scope of care for medically needy.

WAC 388-99-010 Persons eligible for medically needy assistance. The department shall determine as medically needy a resident of the state of Washington who meets the income and resource standards in WAC 388-99-020 and 388-99-035 and is:

(1) Categorically needy as defined under WAC 388-82-010 but for income and/or resources; or

(2) The ineligible spouse of an SSI beneficiary if:

(a) The ineligible spouse is aged, blind, or disabled; and

(b) The total income of the SSI beneficiary is excluded, or

(3) A child under seven years of age, born after September 30, 1983.

(4) A pregnant woman who the department considers categorically needy but for income, resource, and/or deprivation requirements. For the purposes of this subsection, the department shall increase the number in the household by one before comparing:

(a) The pregnant woman's income to the medically needy income level in WAC 388-99-020; and

(b) The pregnant woman's resources to the resource level in WAC 388-99-035.

[Statutory Authority: RCW 74.08.090. 88-23-023 (Order 2722), § 388-99-010, filed 11/7/88; 88-09-037 (Order 2620), § 388-99-010, filed 4/15/88; 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.]

WAC 388-99-011 Continuation of eligibility for pregnant women. The department shall continue Medicaid eligibility for a pregnant woman through the end of the month in which the sixty-day period (beginning on the last day of pregnancy) ends.

[Statutory Authority: RCW 74.08.090. 88-23-023 (Order 2722), § 388-99-011, filed 11/7/88; 86-21-002 (Order 2430), § 388-99-011, filed 10/2/86.]

WAC 388-99-020 Eligibility determination--Medically needy in own home. (1) The department shall set the medically needy income level (MNIL) at:

(a) One person	\$ 382
(b) Two persons	\$ 532
(c) Three persons	\$ 599
(d) Four persons	\$ 667
(e) Five persons	\$ 767
(f) Six persons	\$ 875
(g) Seven persons	\$ 1,008
(h) Eight persons	\$ 1,117
(i) Nine persons	\$ 1,225
(j) Ten persons and above	\$ 1,333

(2) The department shall compute countable income by deducting, from gross income, amounts that would be deducted in determining:

(a) AFDC eligibility for families and children in a nondesignated FIP geographic area. The department shall not apply the earned income exemption of thirty dollars plus one-third of the remainder for individuals applying solely for medical assistance;

(b) SSI/SSP eligibility for aged, blind, or disabled individuals; and

(c) FIP eligibility for families and children.

(3) The department shall allow the following special income disregards:

(a) Health insurance premiums the individual expects to pay during the base period;

(b) An amount equal to the maintenance needs of an ineligible or nonapplying spouse not to exceed the one person medically needy income level; and

(c) Child care payment amounts allowed as if the individual was a FIP enrollee.

(4) If countable income is equal to or less than the appropriate MNIL, the department shall certify the family or individual eligible.

(5) If countable income is greater than the appropriate MNIL, the department shall require the applicant 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 under WAC 388-99-055.

(6) The department shall consider the income and resources of the spouse or of the parent of an applicant under eighteen years of age:

(a) In the same household, available to the applicant, whether or not actually contributed; and

(b) Not in the same household, only to the extent of what is actually contributed.

(7) The department shall consider the financial responsibility of relatives for aged, blind, and disabled, under chapter 388-92 WAC, deeming of income.

(8) In mixed households, where more than one assistance unit exists, the department shall determine income for:

(a) The AFDC-related assistance unit according to subsections (2)(a) and (3) of this section; and

(b) The SSI-related assistance unit according to subsections (2)(b) and (3) of this section; and

(c) The FIP-related assistance unit according to subsections (2)(c) and (3) of this section.

[Statutory Authority: RCW 74.08.090. 88-23-081 (Order 2727), § 388-99-020, filed 11/18/88. Statutory Authority: 1987 1st ex.s. c 7. 88-05-056 (Order 2599), § 388-99-020, filed 2/17/88. Statutory Authority: RCW 74.08.090. 87-17-043 (Order 2522), § 388-99-020, filed 8/17/87; 87-06-006 (Order 2473), § 388-99-020, filed 2/19/87; 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—Spenddown. (1) On initial or subsequent applications, the department shall deduct previously incurred medical expenses from excess countable income subject to the following restrictions:

(a) The medical expense must be a current liability of the applicant or financially responsible relative in the same household or paid by a public program of the state, county, or city other than Medicaid;

(b) The medical expense shall not have been used at any other time to reduce excess countable income on a medical application which resulted in eligibility;

(c) The department shall not consider toward spenddown the portion of the medical expense paid or covered by third-party liability.

(i) The department shall disregard the possible payment as a resource and allow the entire expense for spenddown when a health insurer fails 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.

(ii) When Medicare is the only insurance available and the applicant is hospitalized, the department shall take the following action:

(A) Allow the Medicare deductible toward the spenddown, if there has not been a previous hospital stay within sixty days, and the client still owes the bill; and

(B) Not allow the hospital deductible, and follow the procedure in subsection (1)(c)(i) of this section, if there has been a previous hospital stay within sixty days.

(d) The department shall consider toward spenddown a medical expense incurred prior to the base period and paid for by a public program of the state, county, or city other than Medicaid; and

(e) The department shall consider only medical services provided by practitioners recognized under state law.

(2) If the incurred medical bills equal or exceed the excess countable income at the time of application, the department shall certify the applicant is eligible.

(3) If the incurred medical bills are less than the excess countable income, the department shall not approve the application and shall require the applicant to spenddown the remaining excess countable income. The department shall certify the applicant eligible only when excess countable income has been completely spenddown. The department shall deduct medical expenses incurred during the spenddown period 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 or by a public program of the state, county, or city other than Medicaid; and

(d) Expenses for necessary medical and remedial care covered by the limited casualty program which have not been paid.

(4) The applicant shall provide complete documentation of incurred medical expenses within thirty days of the end of the base period. Once medical eligibility has been approved, the department shall not consider expenses which were not listed or which were omitted. The applicant may use such expenses to reduce excess countable income on a subsequent application provided:

(a) The expenses incurred prior to the certification date meets the conditions in subsection (1) of this section; and

(b) Medical care or supplies received and paid for, on or after the certification date and prior to receiving medical coupons, meets the conditions in subsections (1)(b) through (e) of this section.

(5) The applicant is liable for any expenses incurred prior to the spenddown satisfaction date.

[Statutory Authority: RCW 74.08.090. 88-24-025 (Order 2735), § 388-99-030, filed 12/2/88; 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 388-99-040 Availability of resources. (1) The department shall consider the resource standard for all medically needy to be as listed under WAC 388-99-035.

(2) The department shall consider resources:

(a) For SSI-related medically needy, according to chapter 388-92 WAC;

(b) For AFDC-related medically needy as in determining AFDC financial eligibility; and

(c) For FIP-related medically needy, as in determining FIP financial eligibility.

(3) For households with more than one assistance unit, the department shall consider resources for each assistance unit according to the related program.

(4) The department shall consider only resources available during the period for which income is computed.

[Statutory Authority: RCW 74.08.090. 88-23-081 (Order 2727), § 388-99-040, filed 11/18/88; 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 388-99-060 Scope of care for medically needy. (1) The medical coverage under the limited casualty-medically needy program shall include case management services; dental services; 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) Conditions and limitations in chapter 388-86 WAC shall apply to the limited casualty-medically needy program.

(3) A request for an exception to policy shall require a review by the division of medical assistance.

[Statutory Authority: 1987 1st ex.s. c 7. 88-02-034 (Order 2580), § 388-99-060, filed 12/31/87. Statutory Authority: RCW 74.08.090. 87-22-092 (Order 2553), § 388-99-060, filed 11/4/87; 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

388-100-005 Limited casualty program--Medically indigent.

WAC 388-100-005 Limited casualty program--Medically indigent. (1) The department of social and health services shall provide 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 eligible for the medically indigent program is a person who:

(a) Has an emergency medical condition.

(i) The term emergency medical condition means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

(A) Placing the patient's health in serious jeopardy;

(B) Serious impairment to bodily functions; or

(C) Serious dysfunction of any bodily organ or part.

(ii) For the purposes of this section pregnancy and treatment under the Involuntary Treatment Act (ITA) are considered as emergent medical conditions;

(b) Meets the financial eligibility requirements 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. 87-12-054 (Order 2499), § 388-100-005, filed 6/1/87; 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.]

Notice of Objection: It is the opinion of the Joint Administrative Rules Review Committee that the Department of Social and Health Services has not modified, amended, withdrawn or repealed WAC 388-100-005 to conform with the intent of the legislature, as expressed in both chapters 70.48 and 74.09 RCW.

Although the department has statutory authority in chapter 74.09 RCW, to determine who is eligible to receive assistance under the limited casualty medical program, that authority is not without limitation. The City and County Jail Act of 1977 requires the Department of Social and Health Services to reimburse the local government for inmate medical costs, provided that inmate is otherwise eligible for such care. Inmates have not been denied coverage based on their status as inmates since the enactment of the City and County Jail Act.

In determining legislative intent, a portion of a statute cannot be examined in a vacuum. Rather, all statutes relating to the same subject should be read together and given a harmonious interpretation. The legislature is presumed to enact law with knowledge of existing law. RCW 70.48.130 is made moot by the department's administrative denial of inmate medical coverage, and the legislature does not intend to enact "moot" legislation.

The Joint Administrative Rules Review Committee objects to WAC 388-100-005 and herewith directs the code reviser to publish this Notice of Objection . . . pursuant to RCW 34.04.240. [Joint Administrative Rules Review Committee, Memorandum, July 10, 1987—Filed July 27, 1987, WSR 87-16-031]

(Order 88-04), filed 9/29/88. Statutory Authority: RCW 42.17.370(1).

WAC 390-16-223 Repealed. See Disposition Table at beginning of this chapter.

Title 390 WAC PUBLIC DISCLOSURE COMMISSION

Chapters

- 390-05** **General policies and definitions.**
- 390-16** **Forms for campaign financing reporting—Contributions.**
- 390-18** **Political advertising.**
- 390-20** **Forms for lobbying reports, elected officials and legislators.**
- 390-24** **Forms for reports of financial affairs.**

Chapter 390-05 WAC GENERAL POLICIES AND DEFINITIONS

WAC
390-05-210 Definition—Contribution.

WAC 390-05-210 Definition—Contribution. The term "contribution" as defined in RCW 42.17.020(10) shall be deemed to include, among other things, furnishing services or property or rights on a discriminatory basis or at less than their fair market value as defined in WAC 390-05-235, for the purpose of assisting any candidate or political committee. [If no reasonable estimate of the value of such services, property or rights is practicable, it shall be sufficient to report instead a precise description of such services, property or rights so furnished.] When such in-kind contribution of goods or services is provided, it shall be reported at its fair market value, per WAC 390-05-235.

[Statutory Authority: RCW 42.17.370(1). 88-14-064 (Order 88-02), § 390-05-210, filed 7/1/88; 85-15-020 (Order 85-03), § 390-05-210, filed 7/9/85; Order 62, § 390-05-210, filed 8/26/75.]

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.

Chapter 390-16 WAC FORMS FOR CAMPAIGN FINANCING REPORTING—CONTRIBUTIONS

WAC
390-16-223 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

390-16-223 Major political party—Definition. [Statutory Authority: RCW 42.17.370(1). 88-14-064 (Order 88-02), § 390-16-223, filed 7/1/88.] Repealed by 88-20-029

Chapter 390-18 WAC POLITICAL ADVERTISING

WAC
390-18-040 Use of the terms "reelect," "retain," and "return."

WAC 390-18-040 Use of the terms "reelect," "retain," and "return." (1) The term "reelect" when used in a political advertisement represents that the candidate is presently holding office, and was elected to it, and is seeking another term in that same position.

(2) The term "reelect" may be used in a political advertisement by a nonincumbent candidate who has previously been elected to the position being sought provided that in the same advertisement it is clearly stated that the candidate is not the incumbent.

(3) The term "retain" in a political advertisement represents that the candidate is the incumbent but does not represent that the candidate attained the position by election.

(4) The term "return" in a political advertisement represents that the candidate now holds, or has previously held, the position being sought, but does not represent that the position was attained by election.

(5) Stating the office sought (e.g., "mayor") by a candidate in a political advertisement without expressly stating the candidate is seeking election to the position (e.g., "for mayor"; "Elect Smith Mayor") represents that the candidate presently holds that office.

[Statutory Authority: RCW 42.17.370(1). 88-14-064 (Order 88-02), § 390-18-040, filed 7/1/88; 86-12-059 (Order 86-03), § 390-18-040, filed 6/3/86.]

Chapter 390-20 WAC FORMS FOR LOBBYING REPORTS, ELECTED OFFICIALS AND LEGISLATORS

WAC
390-20-0101 Forms for lobbyist registration.
390-20-014 Registration during last calendar quarter of the biennial registration period.
390-20-022 Definition—Development.
390-20-105 Lobbyist's employer—Meaning—Examples.
390-20-110 Forms for lobbyist employers report.

WAC 390-20-0101 Forms for lobbyist registration. The official form for lobbyist registration as required by RCW 42.17.150 is designated "L-1," revised 12/86. Copies of this form are available at the Commission Office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.